

MINUTES OF THE HOUSE TRANSPORTATION AND PUBLIC SAFETY BUDGET
COMMITTEE

The meeting was called to order by Chairman Lee Tafanelli at 1:30 P.M. on March 8, 2007 in Room 527-S of the Capitol.

All members were present except:

Representative Jeff Whitham - excused
Representative Kay Wolf - excused

Committee staff present:

Amy VanHouse, Kansas Legislative Research Department
Mike Corrigan, Office of Revisor of Statutes
Gina Bowes, Committee Secretary

Conferees appearing before the committee:

Chad Austin, Vice President, Government Relations, Kansas Hospital Association
Cindy Luxem, President and CEO of Kansas Health Care Association
Amy Hoch Altwegg, Executive Director, Village Manor
Dr. Jim Morford, Administrator, Ellsworth Good Samaritan Retirement Village
Debra Zehr, President, Kansas Association of Homes and Services for the Aging
Jack Alexander, Fire Marshal, Office of the Kansas State Fire Marshal
Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association
Martha Smith, Executive Director, Kansas Manufactured Housing
Brian Dehner, Fire Chief, City of Overland Park
Edward Bricknell, Fire marshal, Wichita Fire Department
Steve Moody, Fire Chief, Leavenworth
Karl McNorton, Office of the Kansas State Fire Marshal

Others attending:

See attached list.

- Attachment 1 Overview of **HB 2131**
- Attachment 2 Testimony on **HB 2131** by Chad Austin, Vice President, Government Relations for the Kansas Hospital Association
- Attachment 3 Written Testimony on **HB 2131** by Cindy Luxem, President/CEO, Kansas Health Care Association
- Attachment 4 Testimony on **HB 2131, HB 2132, HB 2133, HB 2048** and **HB 2150** by Amy Hoch Altwegg, Executive Director, Village Manor
- Attachment 5 Testimony on **HB 2131, HB 2132, HB 2133, HB 2048** and **HB 2150** by Dr. Jim Morford, Administrator, Ellsworth Good Samaritan Retirement Village
- Attachment 6 Testimony on **HB 2131, HB 2132, HB 2133, HB 2148** and **HB 2150** by Debra Zehr, President, Kansas Association of Homes and Services for the Aging
- Attachment 7 Testimony on **HB 2131** by Jack Alexander, Fire Marshal, Kansas State Fire Marshal's Office
- Attachment 8 Overview of **HB 2132**
- Attachment 9 Testimony on **HB 2132** by Chad Austin, Vice president, Government Relations for the Kansas Hospital Association
- Attachment 10 Testimony on **HB 2132** by Jack Alexander, Fire Marshal, Kansas State Fire Marshal's Office
- Attachment 11 Overview of **HB 2133**
- Attachment 12 Testimony on **HB 2133** by Chad Austin, Vice President, Government Relations for the Kansas Hospital Association
- Attachment 13 Testimony on **HB 2133** by Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association
- Attachment 14 Written Testimony on **HB 2133** by Cindy Luxem, President/CEO, Kansas Health Care Association

CONTINUATION SHEET

MINUTES OF THE House Transportation and Public Safety Budget Committee at 1:30 P.M. on March 8, 2007 in Room 527-S of the Capitol.

- Attachment 15 Testimony on **HB 2133** by Jack Alexander, Fire Marshal, Kansas State Fire Marshal's Office
- Attachment 16 Testimony on **HB 2133** by Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association
- Attachment 17 Amendment on **HB 2133** by Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association
- Attachment 18 Testimony on **HB 2133** by Steve Moody, Fire Chief, City of Leavenworth
- Attachment 19 Testimony on **HB 2133** by Bryan Dehner, Fire Chief, City of Overland Park
- Attachment 20 Testimony on **HB 2133** by Edward Bricknell, Fire Marshal, Wichita Fire Department
- Attachment 21 Overview of **HB 2148**
- Attachment 22 Testimony on **HB 2148** by Chad Austin, Vice president, Government Relations for the Kansas Hospital Association
- Attachment 23 Testimony on **HB 2148** by Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association
- Attachment 24 Testimony on **HB 2148** by Jack Alexander, Fire Marshal, Kansas State Fire Marshal's Office
- Attachment 25 Overview of **HB 2150**
- Attachment 26 Testimony on **HB 2150** by Chad Austin, Vice president, Government Relations for the Kansas Hospital Association
- Attachment 27 Written Testimony on **HB 2150** by Cindy Luxem, President/CEO, Kansas Health Care Association
- Attachment 28 Testimony on **HB 2150** by Karl McNorton, Kansas State Fire Marshal's Office
- Attachment 29 Amendment to **HB 2150** by Karl McNorton, Kansas State Fire Marshal's Office

Chair Tafanelli recognized Representative Tim Owens who introduced David Jansen, member of the Overland Park City Council and Donna Owens, wife of Representative Tim Owens, and also a member of the Overland Park City Council.

Hearing on HB 2131 - Interpretive guidelines for rules and regulations of state fire marshal.

Amy VanHouse, Legislative Research Staff, explained that **HB 2131** would authorize the State Fire Marshal to develop and provide public interpretive guidelines for the agency's rules and regulations to ensure uniform enforcement (Attachment 1).

The Chair recognized Chad Austin, Vice President, Government Relations, Kansas Hospital Association (KHA), who presented testimony in support of **HB 2131** (Attachment 2). Mr. Austin noted several KHA members have voiced concerns regarding the inconsistent interpretations of the 2000 Life Safety Code by the Kansas State Fire Marshal personnel. The 2000 Life Safety Code is the basis for all hospital fire safety inspections. Mr. Austin relayed that the KHA had meetings with the Kansas State Fire Marshal's Office, and, as a result, the Kansas State Fire Marshal's Office has agreed to put out a quarterly newsletter and post new information concerning rules and regulations on their website. Mr. Austin stood for questions.

Written testimony from Cindy Luxem, President/CEO, Kansas Health Care Association (KHCA), in support of **HB 2131** was distributed to the Committee (Attachment 3). Nancy Pierce, Director, Kansas Health Care Association, was available to stand for questions by Committee for Ms. Luxem.

The Chair recognized Amy Hoch Altwegg, Executive Director, Village Manor, who presented testimony in support of **HB 2131**, **HB 2132**, **HB 2133**, **HB 2148** and **HB 2150** (Attachment 4). Ms. Hoch Altwegg shared her facility experiences regarding the Life Safety Code enforcement process and expressed frustration at the challenge of inconsistent rules and regulations enforced upon her facility from different surveyors during different inspections. Ms. Hoch Altwegg also cited chronic difficulty in receiving return contact from the State Fire Marshal's Office. Ms. Hoch Altwegg stood

CONTINUATION SHEET

MINUTES OF THE House Transportation and Public Safety Budget Committee at 1:30 P.M. on March 8, 2007 in Room 527-S of the Capitol.

for questions.

The Chair recognized Dr. Jim Morford, Administrator, Ellsworth Good Samaritan Retirement Village, who presented testimony in support of **HB 2131, HB 2132, HB 2133, HB 2148 and HB 2150 (Attachment 5)**. Dr. Morford commented on the importance of consistent guidelines interpreted by professional staff from the State Fire Marshal's Office as critical to enabling long term care atmospheres to collaboratively provide safe environments for our frail elders. Dr. Morford also spoke to the problem of receiving different interpretations to the Life Safety Code from different surveyors in the State Fire Marshal's Office. Dr. Morford stood for questions.

The Chair recognized Debra Zehr, President, The Kansas Association of Homes and Services for the Aging (KAHSA), who presented testimony in support of **HB 2131, HB 2132, HB 2133, HB 2148 and HB 2150 (Attachment 6)**. Ms. Zehr stated she believed that an internal action plan put into motion by the State Fire Marshal's Office could meet the intent of **HB 2131, HB 2132 and HB 2148** without legislative action through interpretive guideline postings to the State Fire Marshal's Office website and improved external communication methods. However, Ms. Zehr cited a need for legislative action in the case of **HB 2133 and HB 2150** which, she stated, put into statute a fair, open, objective and two-tiered Information Dispute Resolution process.

The Chair recognized Jack Alexander, Fire Marshal, State Fire Marshal's Office, who presented testimony in a neutral capacity for **HB 2131 (Attachment 7)**. Mr. Alexander stated the State Fire Marshal's Office met with the Health Care Associations and have developed communications between these organizations that will improve the safety of the customers they serve; therefore, the State Fire Marshal's Office could meet the intent of **HB 2131** without any legislative action. Mr. Alexander stood for questions.

The hearing on HB 2131 was closed.

Hearing on HB 2132 - Education requirements for fire marshal employees and agents engaged in inspection or regulation of residences or businesses.

Staff explained **HB 2132** would require any employee or agent of the State Fire Marshal's Office who is involved in the inspection or regulation of residences or businesses to complete 30 hours of education on the rules and regulations of the agency once every two years (Attachment 8).

The Chair recognized Chad Austin, KHA, who presented testimony in support of **HB 2132 (Attachment 9)**. Mr. Austin explained this legislation would ensure that all inspectors are kept up-to-date on the ever changing and complex 2000 Life Safety Code, which is the basis for all hospital fire safety inspections. Mr. Austin believes this education would minimize any issues of inconsistencies within the State Fire Marshal's Office. Mr. Austin stood for questions.

The Chair recognized Jack Alexander, State Fire Marshal's Office, who presented testimony in a neutral capacity on **HB 2132 (Attachment 10)**. Mr. Alexander stated that his inspectors meet and exceed the requirements of this bill through educational requirements and on-going training. Mr. Alexander believes his office currently meets the intent of this legislation through the additional networking and training opportunities with health care organizations. Mr. Alexander stood for questions.

The hearing on HB 2132 was closed.

Hearing on HB 2133 - Informal resolution of dispute of deficiencies cited by fire inspectors.

Staff explained **HB 2133** establishes a procedure for an informal dispute resolution (IDR) regarding deficiencies found by the State Fire Marshal during building inspections of an adult care home, hospital, assisted living facility, business or residence. Within ten calendar days after receiving a notice of deficiencies, the owner or operator could make a written request for an informal dispute resolution by an independent review panel. The members of which would be one employee of the State Fire Marshal's Office and two members from outside the State Fire Marshal's Office. The

CONTINUATION SHEET

MINUTES OF THE House Transportation and Public Safety Budget Committee at 1:30 P.M. on March 8, 2007 in Room 527-S of the Capitol.

individual business can only request one IDR per inspection, and could also request an informal face-to-face dispute resolution. The written request would include the specific deficiencies being disputed, a detailed explanation of the basis of the dispute; and include any supporting documentation, including any information that was not available during the inspection. The request would not delay the timely correction of a deficiency and a facility may not seek a delay in any enforcement action due to the resolution request. The decision of the review panel would be advisory to the State Fire Marshal. The State Fire Marshal's Office would be responsible for all costs of this panel, which would include travel, lodging and per diem (Attachment 11).

The Chair recognized Chad Austin, KHA, who presented testimony in support of **HB 2133** (Attachment 12). Mr. Austin stated KHA supports the proposal that would create a two-tier approach concerning the IDR process. The first tier would utilize the current mechanism offered through the Kansas State Fire Marshal's Office. If the facility is not satisfied with the outcome of this initial process, the facility would be able to have an independent panel review the issue. Mr. Austin explained that, because the outcome of the IDR could result in overturning a deficiency, KHA requests that lines 38-42 of **HB 2133** be amended to state that only a plan of correction be submitted when a request is filed for an IDR. Mr. Austin stood for questions.

The Chair recognized Phyllis Kelly, KACE, who presented testimony in support of **HB 2133** (Attachment 13). Ms. Kelly explained that this bill implements a formal process by which inspectors and owners/operators must both follow if any disputes are contested and feels it is reasonable and fair to both sides of the inspection process. Ms. Kelly offered to stand for questions. Chair Tafanelli requested that, with respect to time, Committee hold their questions until all bills are heard.

Written testimony from Cindy Luxem, KHCA, in support of **HB 2133** was distributed to the Committee (Attachment 14).

The Chair asked if there were any other proponents of **HB 2133**. Debra Zehr, KAHSA, stated she believed that legislative intent could be met without legislative action through interpretive guideline postings to the State Fire Marshal's Office website and improved external communication methods as previously stated.

The Chair recognized Jack Alexander, State Fire Marshal's Office, who presented testimony in a neutral capacity on **HB 2133** (Attachment 15). Mr. Alexander commented he believes this legislation serves a good purpose by implementing a formal process for IDR.

The Chair recognized Martha Neu Smith, Executive Director, Kansas Manufactured Housing Association (KMHA), who presented testimony in a neutral with amendments capacity on **HB 2133** (Attachment 16). Ms. Neu Smith cited the attached amendment to her testimony clarifies that the provisions of the bill should not apply to manufactured homes, modular homes and mobile homes, which are single-family dwellings (Attachment 17).

The Chair recognized Steve Moody, Fire Chief, City of Leavenworth, representing the Kansas State Association of Fire Chiefs, who presented testimony in opposition to **HB 2133** (Attachment 18). Mr. Moody cited a few significant issues that Fire Chiefs in the State of Kansas see as problems that would be created if the local leaders in fire safety lose the ability to handle fire code issue disputes through independent appeals boards in their own communities.

The Chair recognized Eric Sartorius, who presented testimony on behalf of Fire Chief Bryan Dehner, city of Overland Park, in opposition to **HB 2133**. Mr. Sartorius spoke to the process already in place to handle fire code issue disputes in the city of Overland Park. He also noted that bringing local code issues into the statewide process defeats the purpose of resolution in the most expedient manner.

Written testimony from Bryan Dehner, Fire Chief, city of Overland Park, in opposition to **HB 2133** was distributed to the Committee (Attachment 19).

CONTINUATION SHEET

MINUTES OF THE House Transportation and Public Safety Budget Committee at 1:30 P.M. on March 8, 2007 in Room 527-S of the Capitol.

Written testimony from Edward Bricknell, Fire Marshal, Wichita Fire Department, in opposition to **HB 2133** was distributed to the Committee (Attachment 20).

The hearing on HB 2133 was closed.

Hearing on HB 2148 - Fire prevention education; joint opportunities for fire marshal personnel and health service providers.

Staff explained **HB 2148** would require the State Fire Marshal to provide joint opportunities for education in fire prevention and the Kansas fire prevention code for personnel in the State Fire Marshal's Office, adult care homes, medical care facilities, and other health care providers. The bill also states that beginning in fiscal year 2008 and each ensuing fiscal year, fire inspectors who inspect health facilities would participate in one four-hour joint training session with health care facility providers on fire prevention and the Kansas fire prevention code. The sponsors of the training would not charge a fee for the joint training (Attachment 21).

The Chair recognized Chad Austin, KHA, who presented testimony in support of **HB 2148** (Attachment 22). Mr. Austin stated that this bill is necessary to ensure that health care providers are given the needed resources and education to meet the 2000 Life Safety Code requirements which keep Kansans safe.

The Chair recognized Phyllis Kelly, KACE, who presented testimony in support of **HB 2148** (Attachment 23). Ms. Kelly commented on the positive aspects and success of joint training sessions KACE and other organizations have conducted and concurs that the proposed legislation would be beneficial to personnel in the Fire Marshal's Office and personnel of adult care homes to ultimately assure the safety of the residents in Kansas.

The Chair recognized Jack Alexander, State Fire Marshal's Office, who presented testimony in a neutral capacity on **HB 2148** (Attachment 24). Mr. Alexander commented that the provisions of this bill could be handled without legislation by engaging in joint education partnership with the health care organizations, thereby attaining uniformity and continuity in their inspection program.

The hearing on HB 2148 was closed.

Hearing on HB 2150 - Registration with fire marshal required for businesses providing fire prevention services or products, certification for businesses providing fire sprinkler services required.

Staff explained **HB 2150** would require individuals or businesses that sell or offer fire prevention or fire safety products to register with the State Fire Marshal's Office. The registration fee would be paid on an annual basis and could not exceed \$25. Of those fees, 20 percent would be deposited in the State General Fund and the remainder 80 percent would be deposited into the Fire Marshal fee fund. Failing to register may result in a fine up to \$150 which would then be deposited into the State General Fund. In addition, certification would be required for businesses that sell, install, alter, repair, maintain, and inspect fire sprinklers or fire sprinkler systems. The certification fee would be paid on an annual basis for a fee between \$25 and \$200. The new requirements would take effect on October 1, 2008. The fee would not be charged to an officer or employee of the state or political or local taxing subdivision if those individuals are acting on behalf of the state or local government. Of those certification fees, 20 percent would be deposited into the State General Fund with the remainder 80 percent deposited into the State Fire Marshal fee fund (Attachment 25).

The Chair recognized Chad Austin, KHA, who presented testimony in support of **HB 2150** (Attachment 26). Mr. Austin stated KHA supports this bill with the hope that KHA member hospitals would be reassured that they are dealing with reputable fire safety companies, products and services.

Written testimony from Cindy Luxem, KHCA, in support of **HB 2150** was distributed to the Committee (Attachment 27).

CONTINUATION SHEET

MINUTES OF THE House Transportation and Public Safety Budget Committee at 1:30 P.M. on March 8, 2007 in Room 527-S of the Capitol.

The Chair recognized Karl McNorton, Kansas State Fire Marshal's Office, who presented testimony in support of **HB 2150** (Attachment 28). Mr. McNorton stated the State Fire Marshal's Office would like to offer several amendments, one of which is to include fire alarm companies to the businesses required to register with the State Fire Marshal (Attachment 29). This proposal would also establish qualifications, certification and a fee for individuals who perform the work on these fire protection systems that are being installed, serviced, maintained and monitored. With this measure, facilities will receive better services and the Fire Marshal's Office can hold those certified companies accountable for their actions or inactions. Mr. McNorton also spoke to the need of adjusting the potential revenues on the fiscal note for the registration of products and services.

The hearing on HB 2150 was closed.

Chair Tafanelli opened the meeting to questions the Committee may have of any of the conferees. Committee question and discussion of the bills ensued. The Chair asked Debra Zehr, President and CEO of Kansas Health Care Association, to provide the recommended balloon on **HB 2133** and **HB 2150** to the revisor or to himself for Committee consideration.

The meeting adjourned at 3:20 p.m. The next meeting of the Committee will be held at 1:30 p.m. on March 12, 2007.

TRANSPORTATION & PUBLIC SAFETY BUDGET COMMITTEE

GUEST LIST

DATE: 3/8/07

NAME	REPRESENTING
Luke Bell	KAR
Maitha Lee Smith	KMHA
Doreen Kelly	KACE
Chad Austin	KHA
Pat Lehman	KFSA
Steve Moody	KSF3A
Chuck DeMuniz	KSTVA
Scott Heider	ACEC Kansas
Wennis Phillips	KSCFF

HOUSE BILL No. 2131

By Committee on Appropriations

1-19

9 AN ACT relating to the state fire marshal; providing for interpretive
10 guidelines for rules and regulations.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. The state fire marshal shall develop and provide for public
14 interpretive guidelines for rules and regulations of the state fire marshal
15 for the purpose of ensuring uniform enforcement of such rules and
16 regulations.

17 Sec. 2. This act shall take effect and be in force from and after its
18 publication in the statute book.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 1



Thomas L. Bell
President

March 8, 2007

TO: House Transportation and Public Safety Budget Committee

FROM: Chad Austin
Vice President, Government Relations

SUBJECT: House Bill 2131

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of House Bill 2131. This proposed legislation would require the Kansas State Fire Marshal's Office to develop and provide interpretive guidelines for rules and regulations for the purpose of ensuring uniform enforcement.

Several KHA members have voiced concerns regarding the inconsistent interpretations of the 2000 Life Safety Code by the Kansas State Fire Marshal personnel. The 2000 Life Safety Code is the basis for all hospital fire safety inspections. Recently, the Kansas State Fire Marshal's Office has agreed to put out a quarterly newsletter and post new information concerning rules and regulations on their website. KHA wants the Kansas State Fire Marshal's Office to continue to work with KHA and other stakeholders to ensure consistency among the inspectors. Any information provided that can assist hospitals in understanding fire safety rules and regulations would be appreciated.

Thank you for your consideration of our comments.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE

3-8-2007

ATTACHMENT

2

Kansas Hospital Association

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March 8, 2007

Testimony

Before the
Transportation and Public Safety Budget Committee

By
Cindy Luxem, President/CEO
KANSAS HEALTH CARE ASSOCIATION

Chairman Tafanelli and Members of the Committee:

The Kansas Health Care Association, representing approximately 180 long-term-care facilities including nursing homes, assisted living facilities, homes plus, nursing facilities for mental health, residential health care and long-term-care units of hospitals, appreciates the opportunity to provide testimony in support of House Bill 2131. This proposed legislation would provide for interpretive guidelines for rules and regulations for the purpose of ensuring uniform enforcement.

The inconsistencies that providers see from individual inspectors makes one believe that everyone is not receiving the same message about rules and regulations. We believe this is a combination of not receiving the appropriate training from the federal agency (CMS) which requires these regulations and many, many rules and regulations that seem to be in constant change. The Fire Marshal's Office recently added a section to their website that addresses CMS' Most Frequently Asked Questions. We recommend that the associations continue to work with the State Fire Marshal to have consistency with what the inspectors require of our providers.

Thank you for the opportunity to speak to House Bill 2131.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 3



705 North Brady St. Abilene, KS 67410 785-263-1431 (Fax) 785-263-7407
www.VillageManor.org
Amy Hoch Altwegg, Executive Director, ahochalt@mhsks.org

Date: Thursday, March 8, 2007
To: Chairman Tafanelli and Members of the Transportation and Public Safety Budget Committee
From: Amy Hoch Altwegg, Executive Director
Subject: Fire Marshal Bills

Thank you for the opportunity to share my facility experiences regarding the life safety code enforcement process. I am the Executive Director of Village Manor in Abilene, a long-term care facility which is part Memorial Health System that also encompasses Memorial Hospital.

Village Manor is currently in the process of a full renovation to increase the comfort, safety and quality of life for our residents. Part of our renovation includes making modifications and additions to our "fire safety". We believe the safety of our residents is a priority and we have gone above and beyond in this renovation to provide it. Just last week I hired Jack Poole, a nationally known fire safety engineer, to review our current construction for compliance and to make sure we were on track. He stated that in many places we were over-engineered and exceeded requirements that were needed. The following week we had a State Fire Marshal survey. We were cited for "lack of accessibility to our attic. In Mr. Poole's report he had no issues with our ceiling accessibility.

The frustration for us was that we did exactly what was requested of us by the State Fire Marshal last year and now this year they wanted something different. Last year they wanted unobstructed attic access ... large enough for a "bigger" guy to go through and we made changes that they accepted in our plan of correction. This year they stated they can no longer go up in the attic and they want additional trap doors and a light because they need to see it all without going into the attic. The state fire surveyor even stated this was new for him, and he was sympathetic, but he said he had to write us up anyway.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 4

Over the years things like this are a constant challenge. We spend our residents' money (and the taxpayers through Medicaid and Medicare) to modify something only to be held to different rules the next year, or even to find out it wasn't necessary in the first place from the next surveyor.

Another chronic problem I have experienced is difficulty in receiving return contact from the Fire Marshal's Office. For example, once I had a dispute with a survey finding and I had to contact those 7 times to get resolution and while I was waiting I was under the threat of punitive action because of our failure to get back in compliance. When it was all straightened out we were correct and the deficiency was removed. Another time I made 4 calls to get a construction review. I finally received contact 7 months later.

As a facility administrator I have respect for the responsibility and authority of the Fire Marshal's Office, but it is very hard to hit a moving target. We want to be compliant and are willing to do the things it takes to provide the safest environment for our residents. I am happy that the Legislature is looking into problems at the Fire Marshal's Office, and hope that this Committee will help make changes that are contained in the bills before you today.

Thanks so much for your time



Ellsworth Good Samaritan Retirement Village

In Christ's Love, Everyone Is Someone.

1156 Highway 14, Ellsworth, KS 67439
Tel: 785-472-3167 FAX 785-472-5440

Supervisory Staff

- Administrator:
Dr. Jim Morford
- Office Manager
Linda Vague
- Nursing Services
Nancy Glandon, RN
- Marketing, Senior Housing,
And Resource Development
Georgina Bates
- Human Resources, and
Staff Development,
Merridy Heard, RN
- Dietary Services
Tammy Rausch
- Environmental Services
Greg Heller
- Prairie West Assisted Living
Patsy Armbrust
- Social Services
Nancy Bircher
- Activities
Bobbie Tripp
- Health Information
Lori McKinney
- Rehab Services,
Judy Fuller
- Laundry Services,
Dianne Long
- Infection Control and
Quality Assurance,
Margaret Long,
- MDS Coordinator
Peggy Benavidez

Date: Thursday, March 8, 2007

To: Chairman Tafanelli and Members of the Transportation and Public Safety Budget Committee
From: Dr. Jim Morford, Administrator
Subject: Fire Marshal Bills

Thanks for this opportunity to share my experience and concern with you regarding issues relative to the enforcement of the Life Safety Code.

First, I want to reaffirm the importance of safety in long term care atmospheres so that the lives of our elders are secure and safe. We never want to happen in our state what has happened in a few places, where fire has killed too many folks.

Second, the importance of consistent guidelines interpreted by professional folks from the fire marshal office is critical to enabling us to collaboratively provide safe environments for our frail elders. The process should not be punitive, except where facilities have sought to avoid compliance with regulations.

During a survey conducted by a state fire marshal office surveyor, we were cited for having carpet on the walls of our resident wings and also in part of the lobby area of our facility. We were asked for evidence of its fire rating. We did not have one, and he informed us that it was unlikely that any carpet would be tested for vertical flammability. To the tune of about \$15,000, we had all carpet removed and replaced with vinyl, fire-rated wall covering.

In August, 2005, we received a federal Life Safety Code survey. At that time my Director of Environmental Services quizzed this very helpful gentleman (who, incidentally said his primary role in such a visit was for "education", not punitive action, of our staff.) Out of curiosity, we asked him about the carpet on the wall which had been there for a number of years. He asked what was behind the carpet, a block wall or wood frame construction? We told him that it was block wall. He told us we were wrongly cited and should have been informed of which regulation we were being cited for. We told him that the surveyor cited the Life Safety Code.

In a related incident, my environmental services director at the time was also the fire chief of our local community. I had just returned from a meeting sponsored by KAHSA dealing with fire marshal issues. The complaints were many and the tension was high. I came home that day and shared with Bob what had been talked about. He told me he didn't believe me, but apparently he was bothered by my report and proceeded to make three calls: two of them to survey team members and one to the state fire marshal's office. He did not get any two interpretations of the regulations that were even close! He came to be quite upset and equally convinced that the system is significantly in distress

**TRANSPORTATION & PUBLIC SAFETY
BUDGET**

DATE 3-8-2007

ATTACHMENT 5

I am disturbed that with each new Life Safety Code surveyor we get totally new perspectives on the regulations. It's like they each have their own personal guidelines, for it is nothing like a regular survey team.

It is sad to me that this situation has not corrected itself in the past several years, and that it has come down to well meaning legislators having to propose additional bills to correct what hadn't ought to be a problem in the first place!

Together we can fix this and I applaud the intent of legislators who have proposed these bills to address this continuing concern.

Thanks for the opportunity to share this with you.



To: Representative Lee Tafanelli, Chair, Transportation and Public Safety Budget Committee
From: Debra Zehr, President
Date: March 6, 2007

Testimony in Support of HB 2231, HB 2132, HB 2133, HB 2148 and HB 2150

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living facilities, senior housing and community service providers serving over 20,000 older Kansans every day.

We ask for your support for the House bills listed above that were introduced to improve Fire Safety in Kansas for Elders. You have heard some moving and heart-felt testimony from KAHSA members about the need for the changes and improvements that these bills would enact. You have also heard that the Office of the Fire Marshal has met with provider organizations and stakeholders about these bills – in an effort to discern which improvements can be made internally without the need for legislative action – and which will need legislative action.

KAHSA believes that an internal action plan put into motion by the Fire Marshal **could** meet the intent of HB 2131, HB 2132 and HB 2148 without legislative action. In fact, the Fire Marshal can demonstrate that the educational requirements are already being addressed and the joint training is already in the planning phases. The Fire Marshal's office can meet the need for interpretive guidelines via postings to the website and improved external communication methods.

However, in the case of HB 2133 and HB 2150 – there is a need for legislative action – to put into statute a fair, open, objective and two-tiered Informal Dispute Resolution process. The Fire Marshal's office and KAHSA and KHCA stakeholders have agreed on a methodology and would like to move forward on redrafting the proposed bill to reflect the agreed upon process and demonstrate that the fiscal note that the earlier version would have required can be minimized significantly, if not eliminated altogether.

In the case of HB 2150, stakeholders and the Office of the Fire Marshal have agreed on the need for a registry and certification process and are ready to move forward on a redrafting of

**TRANSPORTATION & PUBLIC SAFETY
BUDGET**

DATE 3-8-2007

ATTACHMENT 6

this bill as well. The re-draft would include a more comprehensive list of products and services – and detail a fee structure that eliminates or minimizes the fiscal note. Regarding the other piece of legislation, which was not discussed today – HB 2149 - the bill that would create a Board of Fire Commissioners as an oversight and policy leadership entity, KAHSA must go on record in support of the concept.

Here's why: The testimony you heard today – and the increasing demands on first responders in a post September 11th world – indicate that having a Board composed of experts in fire safety to serve in an oversight and policy-setting capacity would be an asset to the Fire Marshal's office. It would enhance operations for those who will work for the office in the coming years. Now is the time to start planning for natural disasters, pandemics, and terrorist acts – as situations that the Fire Marshal's staff may be involved in as responders. We believe it is time to bring on board the additional leaders who can work with the Fire Marshal to make sure the agency has all it needs – good internal structures and processes, adequate funding, best practices, etc. – so it can fulfill its mission even as this mission expands to meet new challenges.

We ask for your favorable action on HB 2133 and HB 2150. We also ask that you instruct the Office of the Fire Marshal to prepare an action plan that will document the internal changes and processes that will enact the intent of HB 2131, HB 2132 and 2148 without legislative action. We ask that you consider HB 2149 as a method of preparing the Office for increased demands.

We ask that the Fire Marshal's Action Plan and an implementation timeline be prepared and submitted to you prior to the end of this legislative session. It should document both plans and progress. Additionally, we ask that this Committee instruct the Office of the Fire Marshall to submit a progress report on the Action Plan again next year at the beginning of the session so that the Committee can assess the progress made during the year.

Your actions can make a real difference in the lives of Kansas elders – and we appreciate your care and concern for their well-being. Thank you for the opportunity to share our thoughts and concerns today.

I would be happy to answer questions, as would John Peterson or Bill Brady, KAHSA's "on the ground" people at the Statehouse.

*The Kansas Association of Homes and Services for the Aging, 217 SE 8th Avenue,
Topeka, KS 66603, 785-233-7443, www.kahsa.org*



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

**Testimony on House Bill 2131
House Transportation and public Safety Committee
March 8, 2007**

The Kansas State Fire Marshal's Office stands as a neutral party to the provisions of House Bill 2131. The Kansas State Fire Marshal's Office met several times with the Health Care Associations and as a group feel this can be handled by the State Fire Marshal's Office without legislation through open communications. We have all agreed to our agency to the posting of the interpretive guidelines for rules and regulations on our web site and provide the information via email to the Health Care Organizations. We also will continue to provide any and all information that has been received from CMS (Centers for Medicaid/Medicare Services).

We hope that the developed communications between these organizations will help improve the safety of the customers we serve.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 66

DATE 3-8-2007

Voice 785-296-3401 Fax 785-296-0151 www.accesskan

ATTACHMENT 7

HOUSE BILL No. 2132

By Committee on Appropriations

1-19

9 AN ACT concerning the state fire marshal; relating to education require-
10 ments of certain employees and agents.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. Any employee or agent of the state fire marshal who is
14 engaged in the inspection or regulation of residences or businesses shall
15 be required to satisfactorily complete every two years not less than 30
16 hours of education pertaining to rules and regulations of the state fire
17 marshal and the enforcement of such rules and regulations.

18 Sec. 2. This act shall take effect and be in force from and after its
19 publication in the statute book.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 8



Thomas L. Bell
President

March 8, 2007

TO: House Transportation and Public Safety Budget Committee

FROM: Chad Austin
Vice President, Government Relations

SUBJECT: House Bill 2132

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of House Bill 2132. This proposed legislation would require employees of the Kansas State Fire Marshal's Office to receive at least 30 hours of education every two years that pertain to understanding and enforcing the rules and regulations of the State Fire Marshal's Office.

It is our understanding that most, but not all, of the Kansas State Fire Marshal's inspectors meet the proposed educational requirement in House Bill 2132. The legislation would ensure that all inspectors are kept up-to-date on the ever-changing and complex 2000 Life Safety Code, which is the basis of all hospital fire safety inspections. For these reasons, KHA supports the additional education of State Fire Marshal personnel as provided in House Bill 2132.

The Kansas Hospital Association and its members urge the committee to pass House Bill 2132. Thank you for your consideration of our comments.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 9

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/2



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Testimony on House Bill 2132
House Transportation and public Safety Committee
March 8, 2007

The Kansas State Fire Marshal's Office stands as a neutral party to the provisions of House Bill 2132. We believe that our inspectors meet and exceed the requirements of this bill. We are diligently working to achieve continuity and uniformity in how all our inspectors' survey facilities. We believe that the additional networking and training opportunities with our health care partners our staff will become better stewards to the industry.

Now the problems with this bill as it incorporates the word agent means we will need to provide and ensure that all the 650 plus fire departments receive this training and the documentation thereof. This provision will be a logistical nightmare and will require additional resources.

We urge the committee to not consider this bill. We believe that we currently meet the intent of this legislation.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 66603-1000
Voice 785-296-3401 Fax 785-296-0151 www.accesskansas.org

DATE 3-8-2007
ATTACHMENT 10

HOUSE BILL No. 2133

By Committee on Appropriations

1-19

9 AN ACT concerning fire inspections; providing for an informal dispute
10 resolution procedure.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Notwithstanding any other provision of law to the con-
14 trary, if, upon inspection of an adult care home, hospital, assisted living
15 facility, business or residence by an officer or agent of the state fire mar-
16 shal or a fire chief or fire inspector of a city, deficiencies are found, the
17 person who owns or operates such adult care home, hospital, assisted
18 living facility, business or residence, within 10 calendar days after receipt
19 of the statement of deficiencies, may make a written request to the state
20 fire marshal for informal dispute resolution by an independent review
21 panel. The owner or operator may make one request for informal dispute
22 resolution per inspection to dispute any deficiencies with which such
23 owner or operator disagrees. The informal dispute resolution may be
24 based upon the statement of deficiencies and any other materials sub-
25 mitted; however, the state fire marshal shall provide the owner or oper-
26 ator with a face to face informal dispute resolution meeting upon request
27 by the owner or operator.

28 (b) A written request for informal dispute resolution shall:

29 (1) State the specific deficiencies being disputed;

30 (2) provide a detailed explanation of the basis for the dispute; and

31 (3) include any supporting documentation, including any information
32 that was not available at the time of the inspection.

33 (c) Upon receipt of the written request provided for in subsection
34 (a), the state fire marshal shall appoint a panel of three persons to com-
35 pose the independent review panel. One member shall be an employee
36 of the state fire marshal's office and two members shall be appointed
37 from outside the state fire marshal's office.

38 (d) A request for informal dispute resolution shall not delay the timely
39 correction of any deficiency. A facility may not seek a delay of any en-
40 forcement action against it on the grounds that the informal dispute res-
41 olution has not been completed before the effective date of the enforce-
42 ment action. Any decision or proposed resolution of the independent
43 review panel shall be advisory to the state fire marshal.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 11

- 1 (e) Costs of the panel, including traveling expenses and other ex-
- 2 penses of the review, shall be paid by the office of the state fire marshal.
- 3 (f) The state fire marshal shall adopt rules and regulations to imple-
- 4 ment the provisions of this section.
- 5 Sec. 2. This act shall take effect and be in force from and after its
- 6 publication in the statute book.



Thomas L. Bell
President

March 8, 2007

TO: House Transportation and Public Safety Budget Committee

FROM: Chad Austin
Vice President, Government Relations

SUBJECT: House Bill 2133

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of House Bill 2133. This proposed legislation modifies the current informal dispute resolution (IDR) process that health care providers follow when challenging Life Safety Code citations.

Health care providers are aware that the implementation of the 2000 Life Safety Code, which is the basis of all hospital fire safety inspections, has brought with it more strict standards along with controversial interpretations and requirements. Over the past year, several KHA members have complained of inconsistent interpretations of the 2000 Life Safety Code by State Fire Marshal personnel. Currently, any facility wishing to challenge a deficiency can request an informal dispute resolution meeting. This meeting is conducted with a high-ranking member of the State Fire Marshal staff and a representative of the health care facility.

KHA supports the proposal that would create a two-tier approach concerning the IDR process. The first tier would utilize the current mechanism offered through the Kansas State Fire Marshal's Office. If the facility is not satisfied with the outcome of this initial process, the facility would be able to have an independent review panel review the issue. The independent review panel would consist of one member from the Kansas State Fire Marshal's Office and two members from outside the agency.

The proposed legislation states that a request for an IDR should not delay the timely correction of any deficiency. Because the outcome of the IDR could result in overturning a deficiency, KHA requests that lines 38-42 be amended to state that only a plan of correction be submitted when a request is filed for an IDR.

The Kansas Hospital Association and its members urge the committee to pass House Bill 2133. Thank you for your consideration of our comments.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/

DATE 3-8-2007

ATTACHMENT 12

KANSAS ADULT CARE EXECUTIVES ASSOCIATION (KACE)
Testimony – House Transportation and Public Safety Committee
Thursday, March 8, 2007
Phyllis Kelly, Executive Director

Testimony before the House Transportation and Public Safety Committee on HB 2133. An Act concerning fire inspections; providing for an informal dispute resolution process.

Chairman Tafaelli and Members of the Committee:

I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our Association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas.

HB 2133 would provide for an informal dispute resolution procedure for owners or operators of a business or residence after a fire inspection has occurred. Under current practice for adult care homes, the fire marshal's office uses the process adopted by the Kansas Department on Aging (KDOA).

The passage of this bill would put into statute a procedure specifically for fire inspections by an agent of the state fire marshal or a fire chief or fire inspector of a city. The request for an IDR under this proposed legislation will not delay the timely correction of any deficiency and any enforcement action. Additionally, the decision of the review panel will be advisory not mandatory to the state fire marshal. This bill simply puts into place a process which inspectors and owners/operators must both follow if any disputes are contested. It is reasonable and fair to both sides of the inspection process.

We urge your support of HB 2133.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 13



117 SW 6th Avenue, Suite 200
 Topeka, Kansas 66603
 (785) 267-6003 Phone
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 www.khca.org Website
 khca@khca.org E-mail



March 8, 2007

Testimony

Before the
 Transportation and Public Safety Budget Committee
 By
 Cindy Luxem, President/CEO
 KANSAS HEALTH CARE ASSOCIATION

Chairman Tafanelli and Members of the Committee:

The Kansas Health Care Association, representing approximately 180 long-term-care facilities including nursing homes, assisted living facilities, homes plus, nursing facilities for mental health, residential health care and long-term-care units of hospitals, appreciates the opportunity to provide testimony in support of House Bill 2133. This proposed legislation would provide for an Independent Dispute Resolution procedure concerning fire inspections.

Currently long-term care providers can request a written or face-to-face informal dispute resolution (IDR) process to the Chief of Fire Prevention Division, for review. Although there have only been 10 IDR's initiated in 2006 and 7 in 2007, we feel this bill would encourage providers to utilize a process where an independent review panel exists. We would like Providers to have the option of using the current process or paying a fee and using an independent review panel. An independent review panel is currently being used at the Kansas Department on Aging for IDR's on health surveys. We would like to see this process include the following:

1. The independent review panel should consist of three members. One of the members shall be an employee of the state fire marshal's office one who is not an inspector and who did not serve in the first level of review.
2. The Provider should be given details on how the IDR panel will work ahead of time.
3. The provider should be given an opportunity to provide his/her statement after the Fire Marshal's representative speaks.
4. A mechanism should be in place to provide the Fire Marshal's office with feedback on the IDR process from providers.

The only change that we would also request in the legislation is to make it clear this applies to adult care homes as defined by statute.

We appreciate the opportunity to provide testimony and urge the members to support HB 2133.

TRANSPORTATION & PUBLIC SAFETY
 BUDGET

DATE 3-8-2007

ATTACHMENT 14



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Testimony on House Bill 2133
House Transportation and public Safety Committee
March 8, 2007

The Kansas State Fire Marshal's Office stands as a neutral party to the provisions of House Bill 2133. We feel that this process is already established for the Centers for Medicaid/Medicare Services for health care facilities. The agency also follows Kansas Administrative Procedures Act for all other inspections. The bill will require us to also hold informal dispute resolutions for any inspection that is performed by fire and building code officials of which we did not perform the inspection. This would be an overwhelming task for this agency to perform without additional resources.

We have met with the health care associations and feel we have come to an agreement on handling of informal dispute resolutions. We recommend a two tier process; the first step would be for a facility to request an IDR from the KSFMO. The second step would be if the facility is not satisfied with the outcome of the IDR, they could make a request to the KSFMO to have a panel hearing which would be at the facilities expense.

It would be at the desire of the committee to determine if this proposed process should be legislated. The KSFMO feels that this should be legislated policy to ensure the practice is followed in the future.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

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DATE 3-8-2007
ATTACHMENT 15



3521 SW 5th Street
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785-357-5256
785-357-5257 fax
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**TESTIMONY
BEFORE THE
HOUSE
TRANSPORTATION & PUBLIC SAFETY BUDGET
COMMITTEE**

TO: Representative Lee Tafanelli, Chairman
And Members of the Committee

FROM: Martha Neu Smith, Executive Director
Kansas Manufactured Housing Association

DATE: March 8, 2007

RE: HB 2133 – Informal resolution of disputes of deficiencies cited by
fire inspectors

Chairman Tafanelli and Members of the Committee, my name is Martha Neu Smith and I am the Executive Director of the Kansas Manufactured Housing Association (KMHA). KMHA is a statewide trade association, which represents all facets of the manufactured housing industry (i.e. manufacturers, retailers, community owners and operators, finance and insurance companies, service and suppliers and transport companies) and modular housing industry (i.e. manufacturers and retailers). I appreciate the opportunity to comment on HB 2133.

KMHA would like to suggest the attached amendment to the HB 2133. The amendment clarifies that the provisions of HB 2133 do not apply to manufactured homes, modular homes and mobile homes, which are single-family dwellings.

Thank you for your consideration of the suggested amendment.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 16

HOUSE BILL No. 2133

By Committee on Appropriations

1-19

9 AN ACT concerning fire inspections; providing for an informal dispute
10 resolution procedure.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Notwithstanding any other provision of law to the con-
14 trary, if, upon inspection of an adult care home, hospital, assisted living
15 facility, business or residence by an officer or agent of the state fire mar-
16 shal or a fire chief or fire inspector of a city, deficiencies are found, the
17 person who owns or operates such adult care home, hospital, assisted
18 living facility, business or residence, within 10 calendar days after receipt
19 of the statement of deficiencies, may make a written request to the state
20 fire marshal for informal dispute resolution by an independent review
21 panel. The owner or operator may make one request for informal dispute
22 resolution per inspection to dispute any deficiencies with which such
23 owner or operator disagrees. The informal dispute resolution may be
24 based upon the statement of deficiencies and any other materials sub-
25 mitted; however, the state fire marshal shall provide the owner or oper-
26 ator with a face to face informal dispute resolution meeting upon request
27 by the owner or operator.

28 (b) A written request for informal dispute resolution shall:

- 29 (1) State the specific deficiencies being disputed;
30 (2) provide a detailed explanation of the basis for the dispute; and
31 (3) include any supporting documentation, including any information
32 that was not available at the time of the inspection.

33 (c) Upon receipt of the written request provided for in subsection
34 (a), the state fire marshal shall appoint a panel of three persons to com-
35 pose the independent review panel. One member shall be an employee
36 of the state fire marshal's office and two members shall be appointed
37 from outside the state fire marshal's office.

38 (d) A request for informal dispute resolution shall not delay the timely
39 correction of any deficiency. A facility may not seek a delay of any en-
40 forcement action against it on the grounds that the informal dispute res-
41 olution has not been completed before the effective date of the enforce-
42 ment action. Any decision or proposed resolution of the independent
43 review panel shall be advisory to the state fire marshal.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 17

17-2

1 (c) Costs of the panel, including traveling expenses and other ex-
2 penses of the review, shall be paid by the office of the state fire marshal.

3 (d) The state fire marshal shall adopt rules and regulations to imple-
4 ment the provisions of this section.

5 Sec. 2. This act shall take effect and be in force from and after its
6 publication in the statute book.

(g) The provisions of this section shall not apply to Manufactured homes as defined in K.S.A. 58-4202(a) or Mobile homes as defined in K.S.A. 58-4202(b) or Modular homes as defined in K.S.A. 58-4202(c).

House Bill No. 2133
Kansas State Association of Fire Chiefs

Members of the Committee:

Thank you for the opportunity to be part of the process regarding this Legislative matter.

My name is Steve Moody and I am the Fire Chief in the great City of Leavenworth Kansas. I am here today representing, the Kansas State Association of Fire Chiefs, to speak in opposition of House Bill No. 2133 for the following reasons:

- Any Municipality, County or Fire District who has adopted and enforces one of the model fire codes already has a formal process or the structure for due process in place. For instance, the predominant model code called the *International Fire Code* has a section that establishes an independent Board of Appeals to hear and make a decision on fire code issue disputes.
- This legislation would take the due process system, as outlined in the fire code, out of the jurisdiction of the local fire officials and place this burden on the Office of the Kansas State Fire Marshal, this could and most likely would be a significant staffing and logistics issue for an office that serves the public so well, with such a relatively small staff.
- By removing the responsibility of due process in these matters from the local jurisdiction we feel it will "Bottleneck" the system and backlog the disputes through one panel thereby slowing the code enforcement process, which could lead to delays in correcting fire code issues which in turn could have an impact on life safety in our communities.

These are just a few of the more significant issues that we as the Fire Chiefs in the State of Kansas see as problems that would be created if we, as local leaders in fire safety, lose the ability to handle fire code issue disputes through independent appeals boards in our own communities.

Thank you again for allowing the Fire Chiefs in the State of Kansas the opportunity to voice our observations and opinions regarding HB No. 2133 and again we are asking that you not approve this Bill to move forward. We truly feel it would have a negative impact on the Kansas Fire Service as well as the safety of our communities.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 18



8500 Santa Fe Drive
Overland Park, Kansas 66212
• Fax: 913-895-5003
www.opkansas.org

Testimony Before The
House Transportation and Public Safety Budget Committee
Regarding House Bill 2133
Submitted by Fire Chief Bryan Dehner

March 8, 2007

The City of Overland Park appreciates the opportunity to appear before the committee and present testimony in opposition to House Bill 2133.

This legislation would allow businesses and individuals to request informal dispute resolution if deficiencies are found during an inspection by the State Fire Marshal's office or a fire chief or fire inspector of a city. The State Fire Marshal's office would then be required to conduct informal dispute resolution.

The City of Overland Park believes that the cornerstone of the municipal government is that the governing of public affairs should be as close to the people as possible. This belief is exemplified in home rule authority, an amendment to the Kansas Constitution that was approved by the citizens of the state more than 40 years ago.

This constitutionally protected authority allows citizens to shape public policy to reflect their local priorities and sensibilities. House Bill 2133 flies in the face of local control and home rule authority. The informal dispute resolution procedure would take locally-conducted fire inspections and move review of them to the state level. The bill prescribes that an employee of the State Fire Marshal's office be on the review panel. However, HB 2133 does not provide that either of the other two members of the panel be at all familiar with the inspection that is the subject of the panel.

The City would submit that current procedures and reviews provide sufficient recourse to inspected facilities. For this reason and for the additional reasons stated above, the City of Overland Park opposes HB 2133 and respectfully request that the committee decline to pass the bill.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 19

House Transportation and Public Safety Budget Committee

House Bill No. 2133

Testimony submitted by Edward Bricknell,

Fire Marshal

Wichita Fire Department

March 8, 2007

Members of the Committee, thank you for the opportunity to be part of the process regarding this Legislative matter.

My name is Edward Bricknell and I am the Fire Marshal of the City of Wichita. I am here today, representing the Wichita Fire Department and those we protect, to speak out in opposition to House Bill No. 2133.

Why are Codes and Standards adopted by local jurisdictions, be they the *International Fire Code*, the *Uniform Fire Code*, or the *National Fire Protection Association 5000 Standard*? It's because the authority having jurisdiction wants to make sure its community is protected by the most appropriate set of Fire Codes. House Bill No. 2133 takes that responsibility out of the hands of the local jurisdiction and places it in the hands of a State appointed committee. Local jurisdictions lose the ability to control their Code enforcement responsibilities.

House Bill No. 2133 dictates that a committee of three will make the final determination should a citizen feel that he/she was unfairly cited for a violation. There is no need for such legislation. *The International Fire Code* in Section 108.1 makes provisions for a Board of Appeals process. Individuals qualified by experience and training decide the fate of the appeal.

The Wichita Fire Department, Fire Prevention Division, documents thousands of violations each year. Should there come a time when the appeals process becomes commonplace, enforcement abilities will be greatly compromised. The busy State Fire Marshal's Office must divert important resources in the form of personnel and money, in order to address code enforcement issues of those who may be affected by this legislation.

Preventing fires is a serious business. Over the centuries, tens of thousands have given their lives in order for us to be able to safely assemble and escape should there be a fire. Thousands of laws have been passed to provide that protection. That is why we are here today, to provide information on legislation that may compromise that protection.

Thank you for giving me the opportunity to represent the City of Wichita Fire Department in this endeavor. It is an honor. As fire fighters, no is not a word we often use, but in this case, we ask that you not support the passing of House Bill No. 2133.

**TRANSPORTATION & PUBLIC SAFETY
BUDGET**

DATE 3-8-2007

ATTACHMENT 20

HOUSE BILL No. 2148

By Committee on Appropriations

1-22

9 AN ACT concerning the state fire marshal; relating to fire prevention
10 and education opportunities for certain persons.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. The state fire marshal shall provide opportunities for joint
14 education in fire prevention and the Kansas fire prevention code educa-
15 tion for personnel in the fire marshal's office and personnel of adult care
16 homes and medical care facilities, and other providers of medical, health
17 care or mental health care services, who desire such joint education
18 opportunities.

19 Sec. 2. During the fiscal year ending June 30, 2008, and on or before
20 June 30 of each ensuing fiscal year thereafter, fire inspectors who inspect
21 health care facilities who are state employees shall participate in joint
22 training with health care facility providers for not less than one four-hour
23 session in fire prevention and the Kansas fire prevention code. The spon-
24 sors of the training prescribed by this section shall not charge a fee for
25 such joint training.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 21



Thomas L. Bell
President

March 8, 2007

TO: House Transportation and Public Safety Budget Committee

FROM: Chad Austin
Vice President, Government Relations

SUBJECT: House Bill 2148

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of House Bill 2148.

The proposed legislation would ensure that each year medical care facilities would be provided with up-to-date education on fire prevention and the Kansas fire protection code. It is apparent to our member hospitals that several personnel changes and budgetary constraints have made it difficult for the State Fire Marshal's office to provide fire safety and prevention education. For these reasons, it is clear that House Bill 2148 is necessary to ensure that health care providers are given the needed resources and education to meet the 2000 Life Safety Code requirements which keep Kansans safe.

The Kansas Hospital Association and its members urge the committee to pass House Bill 2148. Thank you for your consideration of our comments.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 78

DATE 3-8-2007

ATTACHMENT 22

KANSAS ADULT CARE EXECUTIVES ASSOCIATION (KACE)

Thursday, March 8, 2007

Phyllis Kelly, Executive Director

(Oral and Written Testimony – Proponent)

Testimony before the House Transportation and Public Safety Committee on HB 2148. An Act concerning the state fire marshal; relating to fire prevention and education opportunities for certain persons.

Chairman Tafanelli and Members of the Committee:

I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our Association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas. I appear before you today in support of HB 2148.

The KACE Board of Directors and the KACE Legislative Committee have reviewed the components of HB 2148. Both of these entities concur that the proposed legislation would be beneficial to personnel in the fire marshal's office and personnel of adult care homes to ultimately assure the safety of the residents in Kansas.

Joint educational opportunities for state regulatory staff and providers in the long-term care area are not new in Kansas. Since 1998, long-term care educational seminars have been ongoing; usually two a year that focuses on federal and state statutory and regulatory requirements. These activities were originally initiated at the Kansas Department of Health and Environment and carried over to the Kansas Department on Aging when the survey unit was transferred there by the 2004 Legislature.

The three Associations, Kansas Adult Care Executives, Kansas Association of Homes and Services for the Aging, and the Kansas Health Care Association, have taken turns sponsoring the training sessions. The topics to be covered, fees for the workshops, and other details are governed by a committee composed of representatives from each of the participating entities.

So, the question could be asked – Are these joint training sessions successful? The last seminar in February on Person Centered Care and the Regulatory Process, repeated in Wichita and Topeka, drew an audience of close to 700 attendees. Why the tremendous interest?

- ❖ The regulators and Adult Care Home staff are hearing the same speakers at the same time.
- ❖ Both groups have an opportunity to hear national speakers who have the latest most timely information on a "hot topic".
- ❖ This is an opportunity to dialogue in a neutral environment between regulators and providers.
- ❖ The majority of the costs are borne by the facilities, who have the greatest number in attendance, making the state's fiscal responsibility reasonable.

I urge you to support HB 2148. There is nothing negative that could result from the passage of this Bill, only positive for residents in long-term care facilities.

**TRANSPORTATION & PUBLIC SAFETY
BUDGET**

DATE 3-8-2007

ATTACHMENT 23



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Testimony on House Bill 2148
House Transportation and public Safety Committee
March 8, 2007

The Kansas State Fire Marshal's Office stands as a neutral party to the provisions of House Bill 2148. We feel this can be handled without legislation by engaging in joint education partnership with the health care organizations. We have agreed to share in the development of the training, seminars, and conferences with our health care partners. We will have our staff attend these programs and further gain uniformity and continuity in our inspection program.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 66606
Voice 785-296-3401 Fax 785-296-0151 www.accesskan: DATE 3-8-2007
ATTACHMENT 24

HOUSE BILL No. 2150

By Committee on Appropriations

1-22

9 AN ACT concerning fire prevention and safety products and services;
10 requiring registration with the state fire marshal, requiring certain fire
11 sprinkler businesses to be certified by the state fire marshal.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) On and after October 1, 2008, no person shall sell or
15 offer for sale fire prevention or fire safety products or services unless the
16 person and the product or service is first registered with the state fire
17 marshal except that businesses that sell, alter, maintain, repair, install or
18 inspect fire sprinklers or fire sprinkler systems shall be subject to the
19 provisions of section 2, and amendments thereto.

20 (b) The state fire marshal shall adopt rules and regulations as pro-
21 vided in K.S.A. 31-134, and amendments thereto, establishing procedures
22 for registration as required by this section. Such rules and regulations
23 shall provide for an annual registration fee of not more than \$25. The
24 state fire marshal shall remit all moneys received for such fees to the state
25 treasurer in accordance with the provisions of K.S.A. 75-4215, and
26 amendments thereto. Upon receipt of each such remittance, the state
27 treasurer shall deposit the entire amount in the state treasury. The state
28 treasurer shall credit 20% of each such deposit to the state general fund
29 and shall credit the remainder of each such deposit to the fire marshal
30 fee fund.

31 (c) The state fire marshal shall publish and provide to the public a
32 list of persons registered pursuant to this section and businesses certified
33 pursuant to K.S.A. 31-133a, and amendments thereto.

34 (d) A business holding a current certificate issued by the state fire
35 marshal pursuant to K.S.A. 31-133a, and amendments thereto, shall not
36 be required to register pursuant to this section.

37 (e) (1) Failure to register as required by this section shall constitute
38 a deceptive act or practice under the Kansas consumer protection act and
39 shall be subject to the remedies and penalties provided by such act.

40 (2) The state fire marshal, upon finding that any person has violated
41 this section by failing to register as required by this section or failing to
42 register a product or service as required by this section, may impose upon
43 such person a penalty of not to exceed \$150 for each violation. No such

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 25

1 penalty shall be imposed except upon the written order of the state fire
2 marshal stating the violation, the penalty imposed and the right to appeal
3 to the state fire marshal. Any such person, within 30 days after service of
4 such order, may make written request to the fire marshal for a hearing
5 thereon. The fire marshal shall conduct a hearing in accordance with the
6 provisions of the Kansas administrative procedure act within 30 days after
7 receipt of such request. Any person aggrieved by any order issued pur-
8 suant to this subsection may appeal such order in accordance with the
9 provisions of the act for judicial review and civil enforcement of agency
10 actions.

11 (3) All moneys received from penalties imposed pursuant to this sub-
12 section shall be remitted to the state treasurer in accordance with the
13 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
14 each such remittance, the state treasurer shall deposit the entire amount
15 in the state treasury to the credit of the state general fund.

16 Sec. 2. (a) On and after October 1, 2008, no business shall sell, install,
17 repair, alter, maintain or inspect fire sprinklers or fire sprinkler systems
18 without first being certified by the state fire marshal.

19 (b) (1) The state fire marshal shall adopt rules and regulations as
20 provided in K.S.A. 31-134, and amendments thereto, establishing stan-
21 dards for selling, installing, repairing, altering, maintaining and inspecting
22 fire sprinklers or fire sprinkler systems. The rules and regulations shall
23 also provide for qualifications and training of any person or persons des-
24 ignated by such business as the person or persons upon whose qualifi-
25 cations and training the certification of the business is based and, on and
26 after October 1, 2008, shall require submission of proof, satisfactory to
27 the state fire marshal, that such qualifications and training have been met.

28 (2) The rules and regulations shall further provide for annual certi-
29 fication of such businesses for a fee of not less than \$25 or more than
30 \$200 for each certification, but no fee shall be charged for any person
31 who is an officer or employee of the state or political or taxing subdivision
32 thereof when that person is acting on behalf of the state or political or
33 taxing subdivision. If the person or persons upon whose qualifications and
34 training the certification of the business is based leave such business, the
35 certification of that business is void.

36 (3) The state fire marshal shall remit all moneys received for fees
37 under this section to the state treasurer in accordance with the provisions
38 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
39 remittance, the state treasurer shall deposit the entire amount in the state
40 treasury. The state treasurer shall credit 20% of each such deposit to the
41 state general fund and shall credit the remainder of each such deposit to
42 the fire marshal fee fund.

43 (c) Installation, repair, alteration, sale, maintenance or inspection of

1 any fire sprinkler or fire sprinkler system by any business which is not
2 certified by the state fire marshal as required by this section shall consti-
3 tute a deceptive act or practice under the Kansas consumer protection
4 act and shall be subject to the remedies and penalties provided by such
5 act.

6 (d) As used in this section, "business" means any person who installs,
7 repairs, alters, sells, maintains or inspects fire sprinklers or fire sprinkler
8 systems but does not include:

9 (1) Any person or authorized agent of the person who sells, installs,
10 repairs, alters, maintains or inspects fire sprinklers or fire sprinkler sys-
11 tems of the person's own business or property; or

12 (2) any individual acting as a representative or employee of a certified
13 business.

14 Sec. 3. This act shall take effect and be in force from and after its
15 publication in the statute book.



Thomas L. Bell
President

March 8, 2007

TO: House Transportation and Public Safety Budget Committee

FROM: Chad Austin
Vice President, Government Relations

SUBJECT: House Bill 2150

The Kansas Hospital Association (KHA) appreciates the opportunity to provide testimony in support of House Bill 2150. This proposed legislation requires that personnel who sell fire safety products or services and the product or service offered for sale be registered with the State Fire Marshal.

KHA supports this bill as it could decrease the number of vendors attempting to sell worthless products. Facilities and businesses in Kansas strongly rely on State Fire Marshal Office personnel as valued resources in the area of fire prevention and safety. We hope that this bill will give our member hospitals reassurance that they are dealing with reputable fire safety companies, products and services.

The Kansas Hospital Association and its members urge the committee to pass House Bill 2150. Thank you for your consideration of our comments.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 26

Kansas Hospital Association

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kcal



March 8, 2007

Testimony

Before the
Transportation and Public Safety Budget Committee

By

Cindy Luxem, President/CEO
KANSAS HEALTH CARE ASSOCIATION

Chairman Tafanelli and Members of the Committee:

The Kansas Health Care Association, representing approximately 180 long-term-care facilities including nursing homes, assisted living facilities, homes plus, nursing facilities for mental health, residential health care and long-term-care units of hospitals, appreciates the opportunity to provide testimony in support of House Bill 2150. This proposed legislation would provide for registration of fire prevention and safety products and services and certification of sprinkler businesses by the State Fire Marshal's Office.

This proposed legislation would allow the Fire Marshal's office to provide a registry of vendors as well as certified Sprinkler Company's to any provider requesting the information. We feel this legislation would benefit the Providers and eliminate costly fixes that do not meet the Fire Marshal's standards.

We support the changes that the Fire Marshal's office has brought forward.

Thank you for the opportunity to speak to House Bill 2150.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 27



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Testimony on House Bill 2150 House Transportation and Public Safety Committee March 8, 2007

The Kansas State Fire Marshal's Office stands as a proponent of HB 2150. This bill provides the missing piece of surety for fire protection products, services and systems for the businesses, hospitals, nursing homes, schools, and for the people of Kansas.

We do offer several amendments to include not only the sprinkler companies but also the fire alarm companies that do business here. Our proposal will also establish qualifications, certification and a fee for individuals who perform the work on these fire protection systems that are being installed, serviced, maintained, and monitored.

We feel it is important to include the additional businesses and personnel qualifications to help those facilities receive quality, competent services and to hold those certified companies accountable for their actions or inactions. At this time if we site a facility for problems with maintenance of their fire protection system we can only hold the facility accountable. With this measure facilities will receive better services and we can hold those certified companies accountable for the work performed. This becomes a consumer protection service.

By adding the fire alarm companies it will increase the potential revenue to cover the costs for administering this program. We also realized that we need to adjust the potential revenues on the fiscal note for the registration of products and services. Upon further research with testing laboratories the number of possible products alone will exceed 10,000. One testing laboratory estimates that they work with over 100,000 companies alone on fire protection products. We can't put a hard number on this for the products in our state but we feel this section alone will generate easily \$150,000. We also believe that having these listings will greatly improve our ability to assist facilities, fire departments, and those needing specific products or services they don't know where to obtain.

We encourage the committee to amend this bill and pass it out favorably.

TRANSPORTATION & PUBLIC SAFETY
BUDGET

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DATE 3-8-2007
ATTACHMENT 28

AN ACT concerning fire prevention and safety products and services; requiring registration with the state fire marshal, requiring certain fire sprinkler businesses to be certified by the state fire marshal.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) On and after October 1, 2008, no person shall sell or offer for sale fire prevention or fire safety products or services unless the person and the product or service is first registered with the state fire marshal except that businesses that sell, alter, maintain, repair, install or inspect fire sprinklers, ~~or~~ fire sprinkler systems, fire alarm systems, or smoke detection systems shall be subject to the provisions of section 2, and amendments thereto.

(b) The state fire marshal shall adopt rules and regulations as provided in K.S.A. 31-134, and amendments thereto, establishing procedures for registration as required by this section. Such rules and regulations shall provide for an annual registration fee of not more than \$25 ~~50~~. The state fire marshal shall remit all moneys received for such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall credit 20% of each such deposit to the state general fund and shall credit the remainder of each such deposit to the fire marshal fee fund.

(c) The state fire marshal shall publish and provide to the public a list of persons registered pursuant to this section and businesses certified pursuant to K.S.A. 31-133a, and amendments thereto.

(d) A business holding a current certificate issued by the state fire marshal pursuant to K.S.A. 31-133a, and amendments thereto, shall not be required to register pursuant to this section.

(e) (1) Failure to register as required by this section shall constitute a deceptive act or practice under the Kansas consumer protection act and shall be subject to the remedies and penalties provided by such act.

(2) The state fire marshal, upon finding that any person has violated this section by failing to register as required by this section or failing to register a product or service as required by this section, may impose upon such person a penalty of not to exceed \$150 for each violation. No such penalty shall be imposed except upon the written order of the state fire marshal stating the violation, the penalty imposed and the right to appeal to the state fire marshal. Any such person, within 30 days after service of such order, may make written request to the fire marshal for a hearing thereon. The fire marshal shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request. Any person aggrieved by any order issued pursuant to this subsection may appeal such order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

(3) All moneys received from penalties imposed pursuant to this subsection shall be remitted to the state treasurer in accordance with the

TRANSPORTATION & PUBLIC SAFETY
BUDGET

DATE 3-8-2007

ATTACHMENT 29

provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 2. (a) On and after October 1, 2008, no business shall ~~sell, install, repair, alter, maintain or inspect~~ design, sell, install, service, repair, alter, inspect, test, or monitor any system, device, or equipment used for sending, receiving, or interpreting signals fire sprinklers, or fire sprinkler systems, fire alarm systems, or smoke detection systems without first being certified by the state fire marshal.

(b) (1) The state fire marshal shall adopt rules and regulations as provided in K.S.A. 31-134, and amendments thereto, establishing standards for ~~selling, installing, repairing, altering, maintaining and inspecting~~ design, sell, install, service, repair, alter, inspect, test, or monitor any system, device, or equipment used for sending, receiving, or interpreting signals

fire sprinklers, fire sprinkler systems, fire alarm systems, or smoke detection systems. The rules and regulations shall

also provide for qualifications and ~~training~~ certification of any person or persons designated by such business as the person or persons upon whose qualifications and training the certification of the business is based and, on and after October 1, 2008, shall require submission of proof, satisfactory to the state fire marshal, that such qualifications and ~~training~~ certification have been met.

(2) The rules and regulations shall further provide for annual certification of such businesses for a fee of not less than ~~\$25~~ 300 or more than ~~\$200~~ 1,000 for each certification, and the annual certification of any person or persons of such business for a fee of not less than \$50 or more than \$200 for each certification, but no fee shall be charged for any person

who is an officer or employee of the state or political or taxing subdivision thereof when that person is acting on behalf of the state or political or taxing subdivision. If the person or persons upon whose qualifications and training the certification of the business is based leave such business, the certification of that business is void.

(3) Every business as defined in this act shall maintain continuous general liability coverage of not less than \$1,000,000 and shall annually provide proof of insurance to the state fire marshal upon application for certification.

~~(34)~~ The state fire marshal shall remit all moneys received for fees under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall credit 20% of each such deposit to the state general fund and shall credit the remainder of each such deposit to the fire marshal fee fund.

(c) ~~Installation, repair, alteration, sale, maintenance or inspection~~ design, sell, install, service, repair, alter, inspect, test, or monitor any system, device, or equipment used for sending, receiving, or interpreting signals of any fire sprinkler, or fire sprinkler system, fire alarm systems, or smoke detection systems by any business which is not certified by the state fire marshal as required by this section shall constitute a deceptive act or practice under the Kansas consumer protection

act and shall be subject to the remedies and penalties provided by such act.

(d) As used in this section, "business" means any person who ~~installs, repairs, alters, sells, maintains or inspects~~ design, sell, install, service, repair, alter, inspect, test, or monitor any system, device, or equipment used for sending, receiving, or interpreting signals fire sprinklers, ~~or fire sprinkler systems, fire alarm systems, or smoke detection systems~~ but does not include:

(1) Any person or authorized agent of the person who sells, ~~installs, repairs, alters, maintains or inspects~~ design, sell, install, service, repair, alter, inspect, test, or monitor any system, device, or equipment used for sending, receiving, or interpreting signals fire sprinklers, ~~or fire sprinkler systems, fire alarm systems, or smoke detection systems~~ of the person's own business or property; or

(2) any individual acting as a representative or employee of a certified business.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.