

Approved: 3-26-08

Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 5, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Senator Dennis Pyle
Senator Jay Emler
Representative Mario Goico
Brigadier General Deborah Rose, Kansas Air National Guard

Others attending:

See attached list.

SB 328 - Adjutant general; Kansas state defense force

SB 416 - Creating a Kansas emergency response force

Chairman Brungardt opened the hearing on **SB 328 and SB 416**.

Senator Emler appeared as the Chairman of the Joint Committee on Security, and he was the vice chair at the time of the informational hearing on September 26, 2007, on **SB 328**, ultimately **SB 416** came out of that meeting. Appearing at the hearing were various members of the State Guard Association of the United States and State Defense Forces from Georgia, Alabama, Virginia and Texas. Information on how State Defense Forces in those states are funded, organized and their responsibilities. Some of the responsibilities are: shelter management, medical services, volunteer coordination, and Chaplin services. Kansas Statutes allow for a state guard, but not a clear definition of a state guard as it would be different than the National Guard. A conferee from the Attorney General's office had concerns about the bill as did the Adjutant General.

Representative Mario Goico spoke in favor of the bill, that volunteers would assist the guard.

Senator Pyle appeared in support of the bill. (Attachment 1) The bill creates an organized structure whereby volunteers can have advanced preparation and training in order to expedite their involvement in performing emergency response duties. Senator Pyle did request that this topic might be studied during the interim.

Brigadier General Deborah Rose, Director of the Joint Staff, Kansas National Guard, spoke on the bill. (Attachment 2) The bill was a suggestion during the interim that would provide a military force that would augment the National Guard which the Adjutant General believed was unnecessary and extremely costly for the benefits gained. Several states have used a similar model but many more have rejected its use. General Bunting believes that there are many highly qualified and motivated persons within the state who would generously volunteer to be a part of the Kansas Emergency Response Force. Since this would require staffing to organize, recruit equip and train, the Adjutant General's Department will require augmentation of personnel and associated expenses to establish such a force.

Chairman Brungardt closed the hearing on **SB 328 and SB 416**.

Final Action:

SB 577 - Radon awareness law and radon certification program

Staff provided a balloon for the substitute bill with changes proposed by the committee. (Attachment 3) Additional language on fees will be added to Sec. 5.

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 5, 2008 in Room 526-S of the Capitol.

Senator Barnett moved to adopt the balloon as amended. Senator Reitz seconded the motion. The motion carried.

Senator Barnett moved to pass **Substitute for SB 577** out favorably as amendment. Senator Lynn seconded the motion. The motion carried.

Also maps on the average Radon levels in the different areas of the state were provided. (Attachment 4)

SB 554 - Brown v. Board of Education mural in the capitol

Staff provided a balloon on the bill. (Attachment 5) The balloon adds a new section c starting on line 21.

Senator Reitz moved to adopt the balloon and to pass **SB 554** out favorably as amended.. Senator Lynn seconded the motion. The motion carried.

SB 544 - Fireless cigarettes; distribution and sale of

Staff provided a balloon on the bill. (Attachment 6)

The committee questioned the New York reference on page 9 Sec. 13, and why Kansas doesn't just adopt the model act. The reference is that New York has sent the precedence as the delegation of authority. Would it be possible to set a date in the future. Pat Broxterman, from the Attorney General's Office, provided information on the New York reference.

The committee deferred action on the bill to a later date.

The meeting was adjourned at 11:45 am. The next scheduled meeting is March 6, 2008.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 3-05-08

NAME	REPRESENTING
Annalee Busenry	KDHE
Alicia Parkman	KDHE
Crystal Vierquet	KHLAAC
Chris Wilson	KBIA
LOA Haskett	KDHE
Ladain DeVaughn Pate	observer
Jim Steves	KDHE
Tom Conley	KDHE
MIKE SELVES	KEWA
Spencer Duncan	capitol connection
Sen Annie Pyle	
Cheryl Emler	J. Comm. on Ks. Security
MARIO GOICO	Joint Committee KS Security
Deborah Rose	Director, Joint Staff KNG
Sharon Watson	Adjutant General's Dept, KNG
Gabrielle Huckaby	
TOM PALACE	PMCA OF KS
MIKE BEECHT	XCALIBER INT.
Dan McLaughlin	KS FMO
Karl McVortie	KS FMO
Dan Leong	KHA
Jessica Pennington	page of Senator Julia Lynch
Kristen Hanson	"
Matt Mande	
Gen Besch	PMCA of KS

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STATE OF KANSAS
SENATE CHAMBER



COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS & LOCAL GOVERNMENT
NATURAL RESOURCES
UTILITIES
JOINT COMMITTEE ON SPECIAL CLAIMS
AGAINST THE STATE

Senator Dennis Pyle

**Testimony presented to
The Federal and State Affairs Committee
March 5, 2008**

Mr. Chairman, members of the committee, thank you for allowing me the opportunity to testify once again concerning the issue of volunteer coordination.

SB 416, as recommended by the Joint Committee on Kansas Security, came about as a direct result from testimony surrounding SB 328.

The concept of both bills remains the same – to create an organized structure whereby volunteers can have advanced preparation and training in order to expedite their involvement in performing emergency response duties.

SB 416 creates an organized structure which will potentially eliminate waiting lines as well as allow for training of volunteers in the following ways: volunteer coordination, shelter management, and disaster relief that includes food distribution, mass feeding, and evacuation of nursing homes and hospitals, etc.

Organizing volunteers from various fields and professions – doctors, nurses, attorneys, counselors, communications and computer specialists, paramedics, laborers, etc., for the purpose of serving the families and citizens of Kansas in time of emergency will not only be a grand force multiplier but will help insure our safety and preparedness in times of distress.

In the wake of the slough of natural disasters that Kansas has endured in the past year, the need to strengthen our State in times of disaster by uniting the already devoted Kansas volunteers in an organized fashion to help in times of need is becoming increasingly evident.

Kansans have wholeheartedly demonstrated their volunteer spirit this past year. Beginning with the winter snow storm of December 2006, which carried over into January 2007, I've already mentioned Greensburg, and the devastating floods in Southeast Kansas and more recently the ice storms. Given the threat of man-made or natural disasters, SB 416 is one avenue which can give Kansans greater emergency preparedness.

Thank you. I will stand for questions.

Sen Fed & State

Attachment 1

3-05-08

Testimony on Senate Bill 416

To the Senate Federal and State affairs Committee

Brigadier General Deborah Rose
Director of the Joint Staff

Wednesday, March 5, 2008

Mr. Chairman and members of the Committee:

I am Deborah Rose the Director of the Joint Staff of the Kansas National Guard. I am appearing on behalf of MG Tod Bunting, the Adjutant General and the Director of Homeland Security for Kansas. Thank you for allowing me to comment and support the passage of SN 416 which provides for a civilian volunteer emergency response force that can be used at the state level.

During the interim a bill was suggested that would provide for a military force that would augment the National Guard which the Adjutant General believed was unnecessary and extremely costly for the benefits gained. We understand that a number of states have used a similar model but many more have rejected its use. However during the discussions about this issue brought forth the needs and possible use of volunteers in a disaster. It is clear that prior military or Guard members can be and are used in a number of ways by putting them on state active duty status. However there are many non prior military civilians that could be of great service

to the state of Kansas if given an opportunity to serve. This bill would give a framework to do just this.

Never has the State of Kansas experienced disasters the magnitude of which we experienced last year. Until last year the necessity of augmentation to the State level and many local agencies was not deemed critical. During the four major disasters during 2007, it became obvious that persons trained in emergency management and other skills were not sufficient to endure the many days and weeks required to bring closure to the event. All the agencies and staff conducted themselves in an outstanding manner and got the job done but we have worn these people out and this could close a gap with a trained volunteer force.

General Bunting believes that there are many highly qualified and motivated persons within the State of Kansas who would generously volunteer to be a part of the Kansas Emergency Response Force. The skills and experience they could bring would make Kansas better prepared for all future challenges from natural disasters and Pandemic flu to a foreign animal disease.

Since this force would require staffing to organize, recruit equip and train, the Adjutant Generals Department will require augmentation of personnel and associated expenses to establish such a force.

Thank you for all of your support over the years to The Division of Emergency Management and the Kansas National Guard. If I can answer any questions I would be pleased to do so.

PROPOSED SUBSTITUTE FOR SENATE BILL NO. 577

By Committee on Federal and State Affairs

AN ACT enacting the radon awareness law and the radon certification law; amending K.S.A. 48-1625 and repealing the existing section.

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

New Section 1. (a) This section shall be known and may be cited as the radon awareness law.

(b) As used in the radon awareness law:

(1) Words and phrases used in this section have the meanings ascribed thereto in section 3, and amendments thereto.

(2) "Residential real property" means any interest in residential real property which is improved with not less than one nor more than four residential dwelling units.

(c) On and after July 1, 2009, each contract for the sale of residential real property shall contain the following language in bold font:

“Every buyer of residential real property is notified that the property may present exposure to dangerous concentrations of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer. Radon, a Class-A human carcinogen, is the leading cause of lung cancer in non-smokers and the second leading cause overall. Kansas law requires sellers to disclose any information known to the seller that shows elevated concentrations of radon gas in residential real property. The Kansas Department of Health and Environment recommends all homebuyers have an indoor radon test performed prior to purchasing or taking occupancy of residential real property. All testing for radon should be conducted by a certified radon measurement professional. Elevated radon concentrations can be easily reduced by a certified radon mitigator.

(d) The seller of residential real property shall disclose any information known to the seller

which shows elevated concentrations of radon in such property and shall provide the buyer with all available records and reports pertaining to elevated radon concentrations in such property. The buyer and seller of residential real property shall acknowledge that the information required to be disclosed pursuant to this subsection has been so disclosed in the contract for sale of such property.

(e) The provisions of this subsection shall not apply to:

(A) Transfers pursuant to court order including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers between spouses resulting from a judgment of dissolution of marriage or legal separation, transfers pursuant to an order of possession, transfers by a trustee in bankruptcy, transfers by eminent domain or transfers resulting from a decree for specific performance;

(B) transfers from a mortgagor to a mortgagee by deed in lieu of foreclosure or consent judgment, transfer by judicial deed issued pursuant to a foreclosure sale to the successful bidder or the assignee of a certificate of sale, transfer by a collateral assignment of a beneficial interest of a land trust or transfer by a mortgagee or a successor in interest to the mortgagee's secured position or a beneficiary under a deed in trust who has acquired the real property by deed in lieu of foreclosure, consent judgment or judicial deed issued pursuant to a foreclosure sale;

(C) transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship or trust;

(D) transfers from one co-owner to one or more other co-owners;

(E) transfers pursuant to estate or intestate succession;

(F) transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the sellers;

(G) transfers from an entity that has taken title to residential real property from a seller for the purpose of assisting in the relocation of the seller, so long as the entity makes available to all prospective buyers a copy of the disclosure form furnished to the entity by the seller; or

(H) transfers of an unimproved lot or parcel of residential real property.

New Sec. 2. Sections 3 through 12, and amendments thereto, shall be known and may be cited as the radon certification law.

New Sec. 3. As used in the radon certification law:

(a) "Mitigate" means to repair or alter a building or design for the purpose in whole or in part of reducing the concentration of radon in the indoor atmosphere.

(b) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, state, political subdivision or agency of a state or political subdivision, or any legal successor or representative thereof.

(c) "Radon (Rn)" means the naturally occurring, colorless, odorless, radioactive gaseous element formed by radioactive decay, including radon-222, radon-220 (thoron), radon decay products and radon progeny or as defined by rules and regulations adopted by the secretary.

(d) "Secretary" means the secretary of the department of health and environment.

(e) "Measurement" or "test" means the : (1) Examination of a building, soil or air for the presence of radon, including taking air or soil samples; or (2) diagnosis of the cause of radon contamination.

New Sec. 4. (a) The secretary shall establish a certification program for persons performing radon tests or mitigation in the state.

(b) The secretary shall adopt rules and regulations necessary to administer and implement

the provisions of the radon certification law. Such rules and regulations shall be adopted no later than April 1, 2009.

(c) Within the limitations of appropriation acts, the secretary may employ personnel necessary to carry out the provisions of the radon certification law and rules and regulations adopted thereunder.

(d) The secretary may enter into agreements with public or private agencies for the implementation of the radon certification law.

(e) After notice and hearing in accordance with the Kansas administrative procedure act, the secretary may deny, suspend or revoke a certification issued under the radon certification law for a violation of any provision of such law or any rule and regulation adopted thereunder.

New Sec. 5. (a) The secretary may establish a schedule of fees to pay the costs of administration and implementation of the radon certification law. The secretary shall remit all moneys received from 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 and credit it to the radiation control operations fee fund established by K.S.A. 48-1625, and amendments thereto.

(b) Subject to the limitations of this section, the secretary may impose and collect fees, in advance for:

Radon measurement technician, application fee,	
new and annual renewal.....	\$200.00
Radon mitigation technician application fee,	
new and annual renewal.....	200.00

Sec. 5. (a) ~~The secretary may establish a schedule of fees to pay the~~ fix and impose fees for the initial certification, and annual renewal of such certification, of persons certified under the radon certification law. The secretary also may fix fees for the late submission of applications for renewal of certifications, application fees for training courses and fees for returned or insufficient fund checks. Fees shall be fixed by the adoption of rules and regulations and shall be in an amount necessary to pay the direct and indirect costs of administration and implementation of the radon certification law. The secretary shall remit all moneys received from 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 and credit it to the radiation control operations fee fund established by K.S.A. 48-1625, and amendments thereto.

(b) ~~Subject to the limitations of this section, the secretary may impose and collect fees, in advance for:~~

Radon measurement technician, application fee,	
 new and annual renewal.....\$200.00
Radon mitigation technician application fee,	
 new and annual renewal.....200.00
Radon measurement business, application fee,	
 new and annual renewal.....500.00
Radon mitigation business, application fee,	
 new and annual renewal.....500.00
Radon measurement laboratory, application fee,	
 new and annual renewal.....500.00
Training course, application fee.....75.00
Returned check or insufficient check.....50.00
Late application fee, for each month or part thereof.....50.00

(c) ~~(b)~~ If the owner of a radon measurement business also is a certified radon measurement technician for that business, the radon measurement technician fee for such owner shall be waived. If the owner of a radon mitigation business also is a certified radon mitigation technician for that business, the radon mitigation technician fee for such owner shall be waived.

Radon measurement business, application fee, new and annual renewal.....	500.00
Radon mitigation business, application fee, new and annual renewal.....	500.00
Radon measurement laboratory, application fee, new and annual renewal.....	500.00
Training course, application fee.....	75.00
Returned check or insufficient check.....	50.00
Late application fee, for each month or part thereof.....	50.00

(c) If the owner of a radon measurement business also is a certified radon measurement technician for that business, the radon measurement technician fee for such owner shall be waived. If the owner of a radon mitigation business also is a certified radon mitigation technician for that business, the radon mitigation technician fee for such owner shall be waived.

New Sec. 6. (a) A person may not perform radon measurements or represent or advertise that such person may perform radon measurements unless such person has been certified as a radon measurement technician by the department.

(b) Any person desiring to be certified as a radon measurement technician shall submit an application on a form prescribed by the department along with the non-refundable application fee.

(c) A radon measurement technician shall comply with the requirements of the radon certification law and any rules and regulations adopted thereunder.

(d) (1) Except as provided by this section, no person shall be certified as a radon measurement technician unless within one year prior to the date of the submission of an application

for certification, such person shall have completed successfully a training course and passed an examination on radon measurement, approved by the department.

(2) Applicants who are certified by either the national environmental health association or the national radon safety board on July 1, 2008, and who have been performing the duties of a radon measurement technician for at least one year prior to July 1, 2008, and who have completed an approved training course and passed an examination on radon measurement at any time prior to July 1, 2008, shall be deemed to have met the requirements of paragraph (1).

(e) The provisions of this section shall not apply to: (A) A person performing radon measurements on a building owned by such person or where such person resides; or (B) a person performing radon measurements without remuneration.

New Sec. 7. (a) A person may not perform radon mitigation or represent or advertise that such person may perform radon mitigation unless such person has been certified as a radon mitigation technician by the department.

(b) Any person desiring to be certified as a radon mitigation technician shall submit an application on a form prescribed by the department along with the non-refundable application fee.

(c) A radon mitigation technician shall comply with the requirements of the radon certification law and any rules and regulations adopted thereunder.

(d) (1) Except as provided by this section, no person shall be certified as a radon mitigation technician unless within one year prior to the date of the submission of an application for certification, such person shall have completed successfully a training course and passed an examination on radon mitigation approved by the department.

(2) Applicants who are certified by either the national environmental health association or

the national radon safety board on July 1, 2008, and who have been performing the duties of a radon mitigation technician for at least one year prior to July 1, 2008, and who have completed an approved training course and passed an examination on radon mitigation at any time prior to July 1, 2008, shall be deemed to have met the requirements of paragraph (1).

(e) The provisions of this section shall not apply to: (A) A person performing radon mitigation on a building owned by such person or where such person resides; or (B) a person performing radon mitigation without remuneration.

New Sec. 8. (a) A person may not operate a radon measurement business or represent or advertise that such person is a radon measurement business unless such person has been certified as a radon measurement business by the department.

(b) Any person desiring to be certified as a radon measurement business shall submit an application on a form prescribed by the department along with the non-refundable application fee.

(c) A radon measurement business shall comply with the radon certification law and any rules and regulations adopted thereunder. A certified radon measurement technician shall own, be employed by or be retained as a consultant by a radon measurement business when such business is performing radon measurements. All radon testing, including the initial placement and final retrieval of all measurement devices and post-mitigation testing, shall be performed by a radon measurement technician.

New Sec. 9. (a) A person may not operate a radon mitigation business or represent or advertise that such person is a radon mitigation business unless such person has been certified as a radon mitigation business by the department.

(b) Any person desiring to be certified as a radon mitigation business shall submit an

application on a form prescribed by the department along with the non-refundable application fee.

(c) A radon mitigation business shall comply with the radon certification law and any rules and regulations adopted thereunder. A certified radon mitigation technician shall own, be employed by or be retained as a consultant by a radon mitigation business when such business is performing radon mitigation. A radon mitigation business shall ensure that radon mitigation system installations are performed under the supervision of a radon mitigation technician

New Sec. 10. (a) A person may not perform laboratory analysis or represent or advertise that it may perform laboratory analysis of radon measurement devices or samples unless such person has been certified as an approved radon measurement laboratory by the department.

(b) Any person desiring to be certified as an approved radon measurement laboratory shall submit an application on a form prescribed by the department along with the non-refundable application fee.

(c) A radon measurement laboratory shall comply with the requirements of the radon certification law and any rules and regulations adopted thereunder. A person shall not be certified as an approved radon measurement laboratory unless such person has obtained a laboratory certification from the national environmental health association, the national radon safety board or a national proficiency-testing program approved by the department.

(d) A designation as an approved radon measurement laboratory shall not be nontransferable.

New Sec. 11. (a) Except as provided by subsection (d), any person who tests for radon in this state, analyzes radon testing devices used in this state or performs radon mitigation in this state shall make a report of such testing, analysis or mitigation to the secretary. Such report shall be made within 30 days of performance of such testing, analysis or mitigation and shall include the address

or location where the services were provided and the type and results of any tests, analysis or mitigation.

(b) All information obtained pursuant to this section shall be confidential and shall not be subject to disclosure under the open records act.

(c) The secretary may conduct research studies utilizing the data required to be reported by subsection (a). No report or publication shall include names or addresses of individuals.

(d) The provisions of this section shall not apply to a person performing tests or mitigation on a building owned by such person or where such person resides.

New Sec. 12. (a) Any person who willfully violates any provision of the radon certification law or any rules and regulations adopted thereunder is guilty of: (1) A class C nonperson misdemeanor, for a first offense; and (2) a class B nonperson misdemeanor, for a second and subsequent offense.

(b) In addition to any other penalty provided by law and after providing notice and a hearing in accordance with the Kansas administrative procedure act, the secretary may impose a fine in an amount not to exceed \$10,000 against any person who: (1) Violates any provision of the radon certification law and any rule and regulation adopted or order issued thereunder; (2) violates any term, condition or limitation of any certification issued under the radon certification law; or (3) commits any violation for which a certification may be revoked under the radon certification law or any rules and regulations adopted thereunder. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the amount of the civil penalty. Any action by the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) On the request of the secretary, the attorney general is authorized to institute a civil action to collect any fine imposed pursuant to this section.

(d) All moneys collected from fines imposed under this section shall be remitted 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 to the credit of the state general fund.

Sec. 13. K.S.A. 48-1625 is hereby amended to read as follows: 48-1625. (a) There is hereby created in the state treasury the radiation control operations fee fund to administer the provisions of K.S.A. 48-1601 through 48-1624, and amendments thereto. Such fund shall be administered by the secretary of health and environment in accordance with the provisions of this section.

(b) Revenue from the following sources shall be deposited in the state treasury and credited to the radiation control operations fee fund:

(1) Fees collected for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act;

(2) reimbursement for administrative, inspection, radioactive material disposal, investigation and remedial action expenses;

(3) excluding civil penalties, moneys paid pursuant to any agreement, stipulation or settlement;

(4) grants, gifts, bequests or state appropriations for the purposes of K.S.A. 48-1601 through 48-1624, and amendments thereto; ~~and~~

(5) fees collected pursuant to section 5, and amendments thereto; and

~~(5)~~ (6) interest attributable to investment of moneys in the fund.

Moneys described in this subsection which are received by the secretary shall be remitted by the secretary 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 to the credit of such fund.

The secretary of health and environment is authorized to receive from the federal government or any of its agencies or from any private or governmental source any funds made available for the purposes of K.S.A. 48-1601 through 48-1624, and amendments thereto.

(c) The secretary is authorized to use moneys from the radiation control operations fee fund to pay the cost of:

(1) All activities related to licensing and registration, including but not limited to, development and issuance of licenses, registrations and renewals thereof, compliance monitoring, inspections, long term monitoring and enforcement actions and decontamination, decommissioning, reclamation or remedial actions;

(2) design and review of radioactive waste disposal facilities;

(3) review and witnessing of test and repair procedures;

(4) investigation of violations, complaints, pollution and events affecting the environment or public health;

(5) design and review of remedial action plans;

(6) personnel training programs;

(7) contracting for services needed to supplement the department's staff expertise in

administering the provisions of K.S.A. 48-1601 through 48-1624, and amendments thereto;

(8) staff consultation needed to provide radiation protection services provided under this act;

(9) mitigation of adverse environmental or public health impacts, including impounding sources of radiation;

(10) emergency or long-term remedial activities;

(11) administrative, technical and legal costs incurred by the secretary in administering the provisions of K.S.A. 48-1601 through 48-1624, and amendments thereto; ~~and~~

(12) costs of program administration, including the state's share of any grant received from the federal government or from other sources, public or private; and

(13) costs of administration of the radon certification law and the radon awareness law.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the radiation control operations fee fund interest earnings based on:

(1) The average daily balance of moneys in the radiation control operations fee fund for the preceding month; and

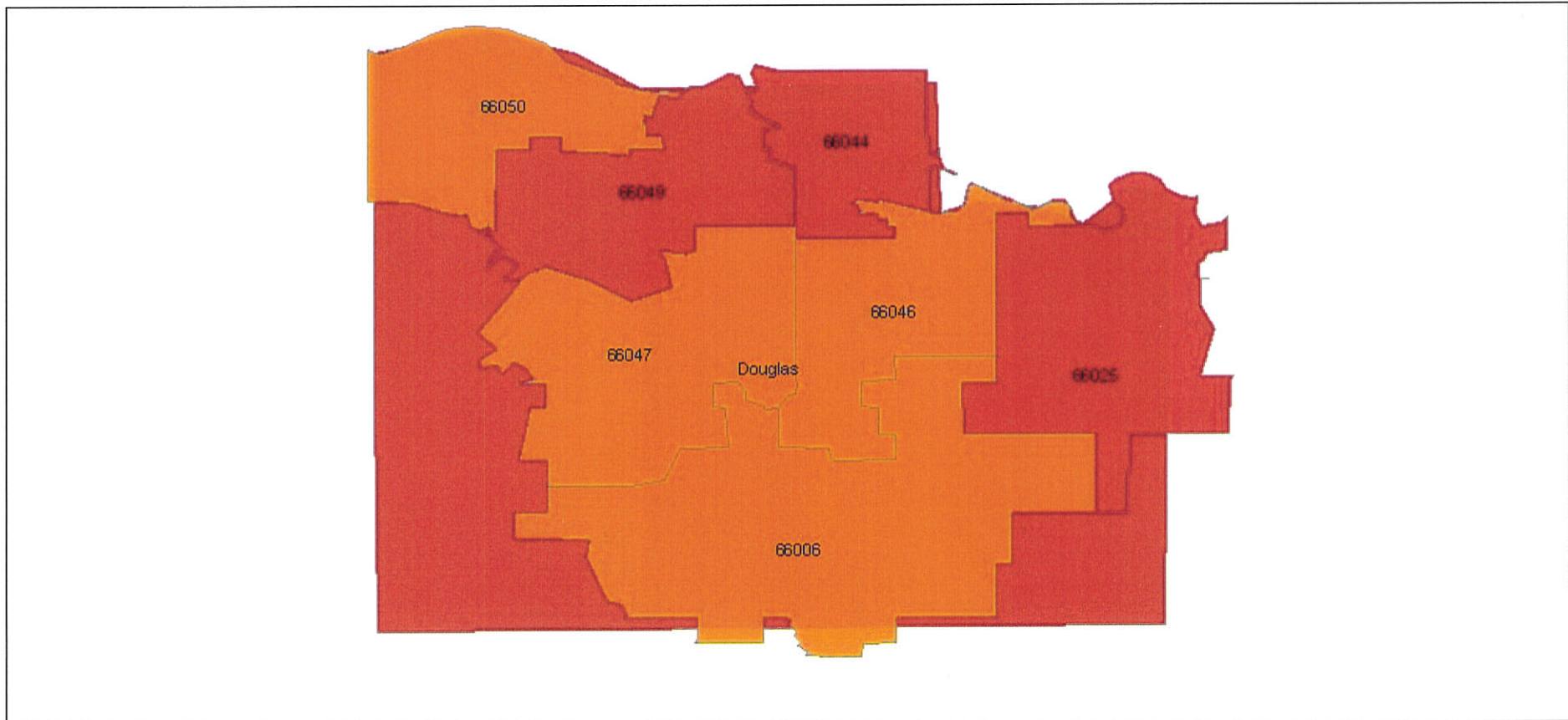
(2) the net earnings rate of the pooled money investment portfolio for the preceding months.

(e) All expenditures from this fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

Sec. 14. K.S.A. 48-1625 is hereby repealed.

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

Douglas County Average Radon Values by Zip Code 2008 Kansas Radon Database



Average Radon Level = 4.4 pCi/L
Maximum Reported Radon Level = 55.6 pCi/L
Total Number of Measurements = 949
Total Measurements 4 pCi/L or greater = 323

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

Copyright 2008, KDHE and Kansas State University. Caution: This map has been produced from the results of a limited statewide indoor radon survey completed by KDHE in 1988, with the addition of indoor radon collected since. This map is provided free of charge to the public and is generated for study purposes only. As further data becomes available, revision will be necessary. This map cannot be used to characterize or predict indoor radon levels at any specific area or location. Measurement must be performed to determine radon levels in any given residence or building. Contact the Kansas Radon Program at 800 693-5343. Permission is hereby given to reproduce this map provided it is reproduced in its entirety without modification.

Gove County Average Radon Values by Zip Code 2008 Kansas Radon Database



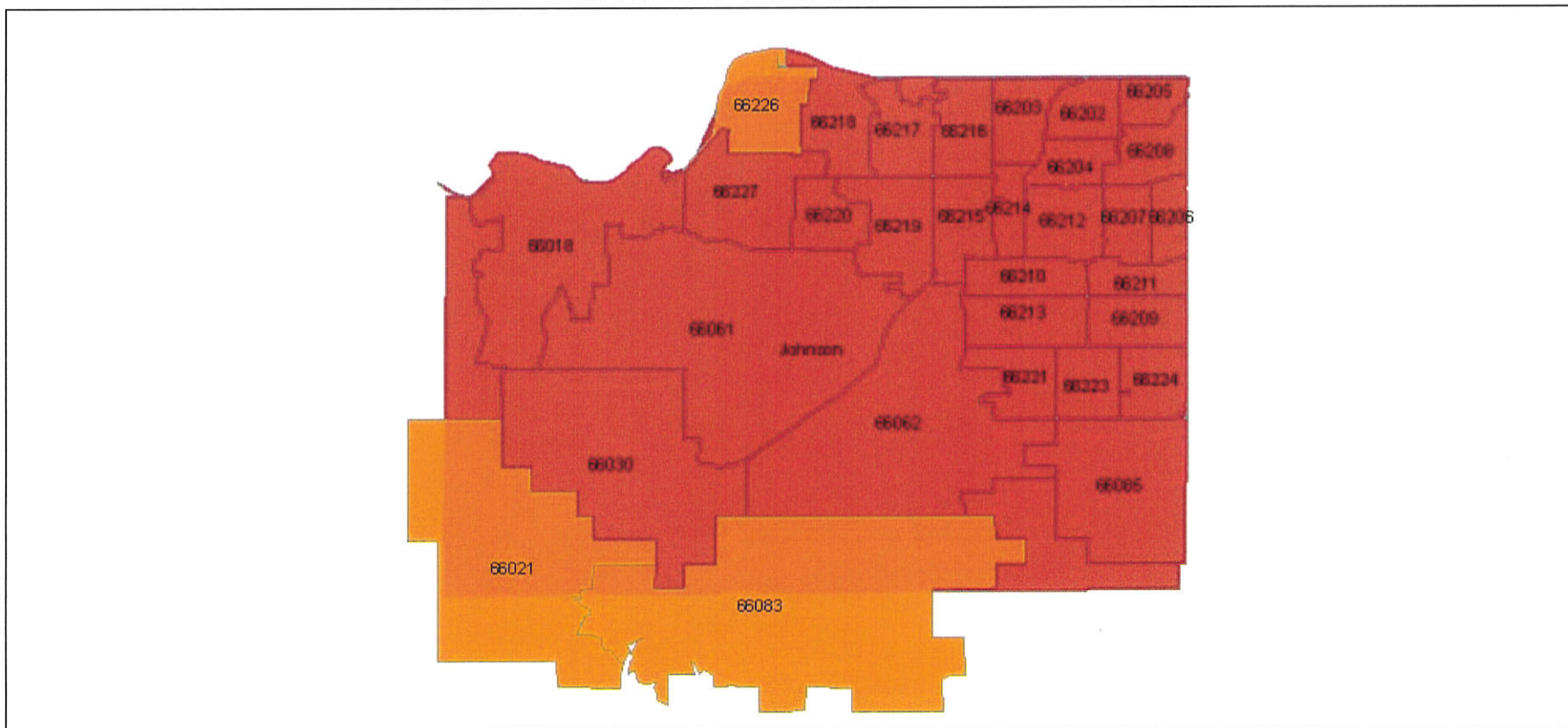
Average Radon Level = 6.5 pCi/L
Maximum Reported Radon Level = 34.9 pCi/L
Total Number of Measurements = 117
Total Measurements 4 pCi/L or greater = 72

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

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Johnson County Average Radon Values by Zip Code 2008 Kansas Radon Database



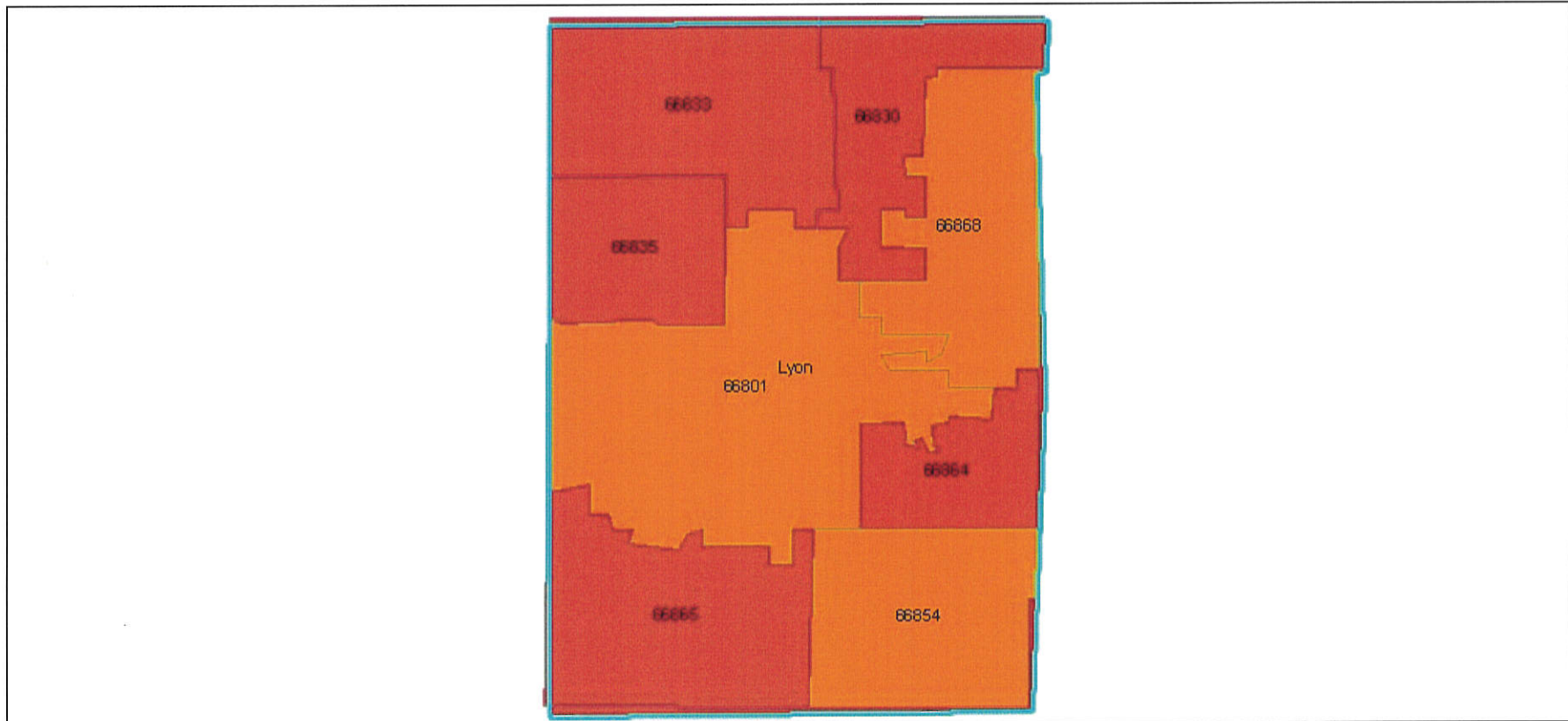
Average Radon Level = 5.0 pCi/L
Maximum Reported Radon Level = 137 pCi/L
Total Number of Measurements = 8,453
Total Measurements 4 pCi/L or greater = 3,598

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

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Lyon County Average Radon Values by Zip Code 2008 Kansas Radon Database



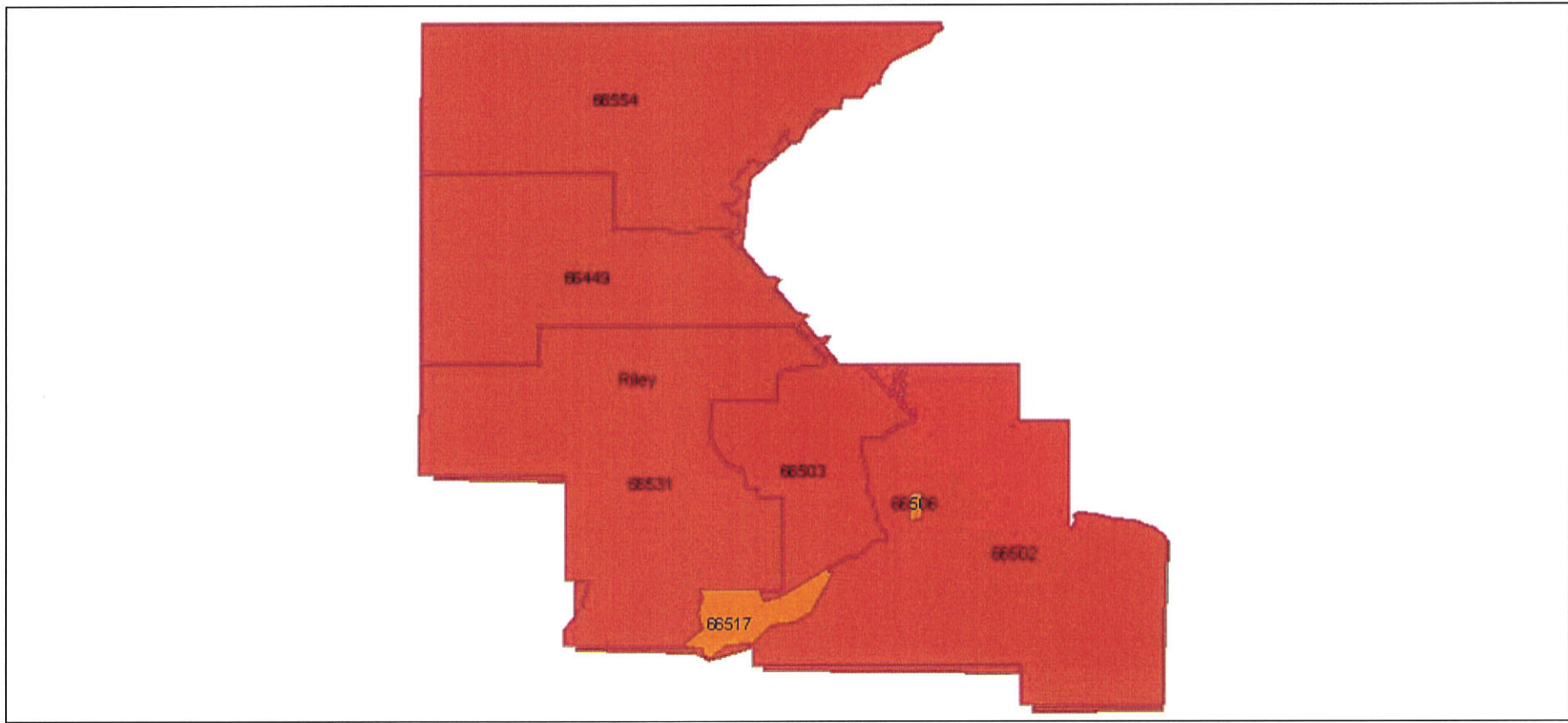
Average Radon Level = 4.0 pCi/L
Maximum Reported Radon Level = 49.3 pCi/L
Total Number of Measurements = 304
Total Measurements 4 pCi/L or greater = 94

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

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Riley County Average Radon Values by Zip Code 2008 Kansas Radon Database



Average Radon Level = 5.4 pCi/L
Maximum Reported Radon Level = 109.1 pCi/L
Total Number of Measurements = 2,785
Total Measurements 4 pCi/L or greater = 1,272

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

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Saline County Average Radon Values by Zip Code 2008 Kansas Radon Database



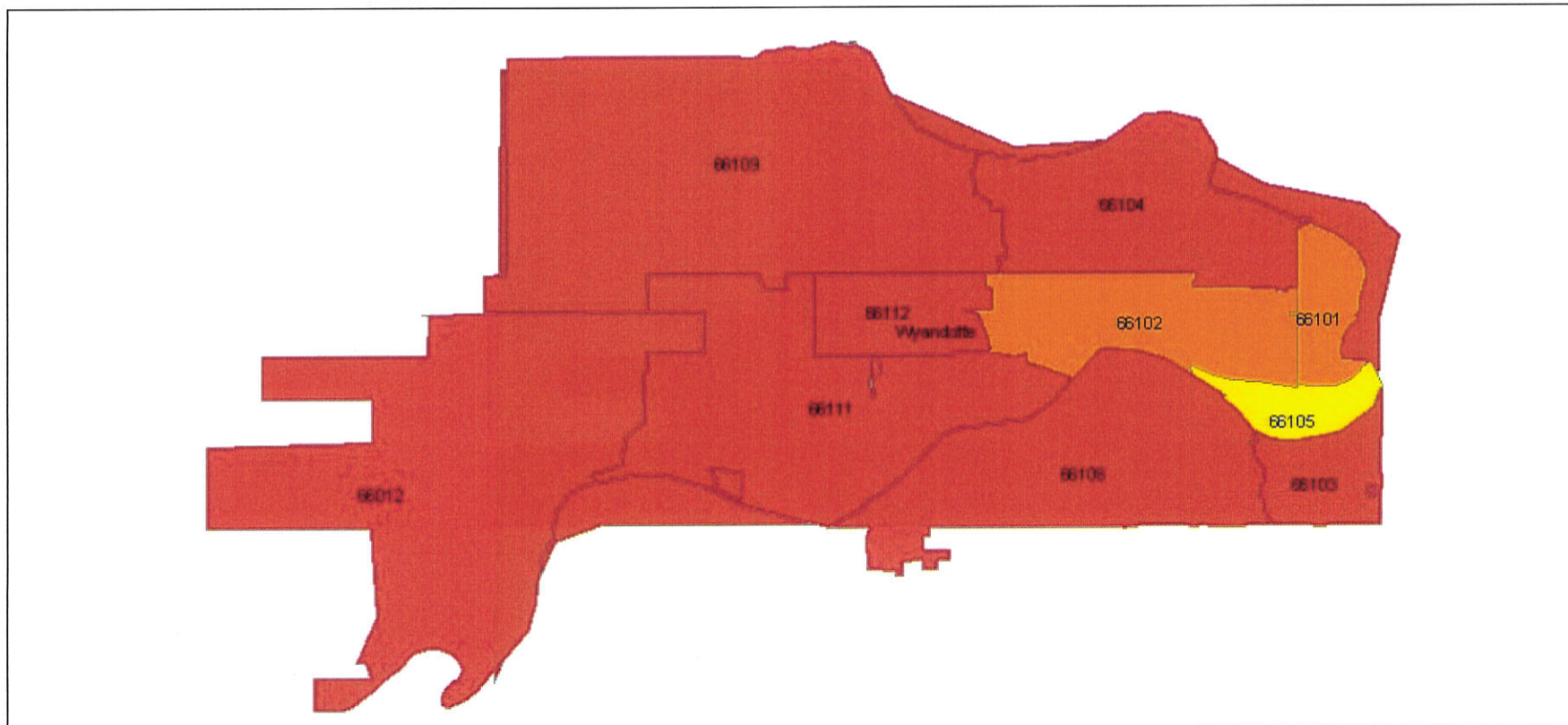
Average Radon Level = 5.9 pCi/L
Maximum Reported Radon Level = 66 pCi/L
Total Number of Measurements = 1,081
Total Measurements 4 pCi/L or greater = 593

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

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Wyandotte County Average Radon Values by Zip Code 2008 Kansas Radon Database



Average Radon Level = 4.6 pCi/L
Maximum Reported Radon Level = 89.9 pCi/L
Total Number of Measurements = 848
Total Measurements 4 pCi/L or greater = 365

Legend
 2008 Kansas Radon Values by Zipcode

- 0-1.9 pCi/L
- 2.0 - 3.9 pCi/L
- 4.0 - 47.0 pCi/L

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SENATE BILL No. 554

By Senators Hensley, Betts, Haley, Kelly and V. Schmidt

2-5

9 AN ACT concerning a mural in the capitol.

10

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

12 Section 1. (a) The Kansas state historical society and the department
13 of administration shall develop plans to place a mural in the capitol com-
14 memorating the United States supreme court decision entered May 17,
15 1954, in the case of *Brown v. Board of Education* (347 U.S. 483, 74 S.Ct.
16 686, 98 L.Ed. 873). Such plans shall be developed in consultation with
17 the joint committee on arts and cultural resources.

2010

18 (b) On or before January 1, ~~2009~~, the plans developed pursuant to
19 subsection (a) shall be submitted to the joint committee on arts and cul-
20 tural resources.

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

(c) Except for the costs associated with the preparation and submission of the plans under subsections (a) and (b), no public funds shall be used to pay the costs of creating and installing the mural developed under this section.

Session of 2008

SENATE BILL No. 544

By Committee on Federal and State Affairs

2-5

9 AN ACT concerning reduced ignition propensity cigarettes.

10

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

12 Section 1. (a) This act shall be known and may be cited as the fire
13 safety standard and firefighter protection act.

14 (b) If any provision of the fire safety standard and firefighter protec-
15 tion act is held to be unconstitutional, such holding shall not affect the
16 validity of any remaining portion of the act.

17 Sec. 2. As used in this act:

18 (a) "Agent" means any person authorized by the director to purchase
19 and affix stamps on packages of cigarettes.

20 (b) "Cigarette" means any roll for smoking, whether made wholly or
21 in part of tobacco or any other substance, irrespective of size or shape,
22 and irrespective of tobacco or substance being flavored, adulterated or
23 mixed with any other ingredient, ~~the wrapper or cover of which is made~~
24 ~~in whole or part of paper or any other substance or material, other than~~
25 ~~only leaf~~ tobacco.

if the wrapper is in greater part made of any material except

26 (c) "Director," "retail dealer," "sale" and "wholesale dealer" shall
27 have the meanings ascribed thereto in K.S.A. 79-3301, and amendments
28 thereto.

"vending machine operator,"

29 (d) "Manufacturer" means:

30 (1) Any entity which manufactures or otherwise produces cigarettes
31 or causes cigarettes to be manufactured or produced anywhere that such
32 manufacturer intends to be sold in this state, including cigarettes intended
33 to be sold in the United States through an importer;

34 (2) the first purchaser anywhere that intends to resell in the United
35 States cigarettes manufactured anywhere that the original manufacturer
36 or maker does not intend to be sold in the United States; or

37 (3) any entity that becomes a successor of an entity described in par-
38 agraph (1) or (2).

39 (e) "Quality control and quality assurance program" means the lab-
40 oratory procedures implemented to ensure that operator bias, systematic
41 and non-systematic methodological errors and equipment-related prob-
42 lems do not affect the results of the testing. Such a program ensures that
43 the testing repeatability remains within the required repeatability values

1 required by section 3, and amendments thereto, for all test trials used to
2 certify cigarettes in accordance with this act.

3 (f) "Repeatability" means the range of values within which the repeat
4 results of cigarette test trials from a single laboratory will fall 95% of the
5 time.

6 (g) "Sell" means to sell, or to offer or agree to do the same.

7 Sec. 3. (a) Except as provided in subsection ~~(e)~~ no cigarettes may
8 be sold or offered for sale in this state or offered for sale or sold to any
9 person located in this state unless the cigarettes have been tested in ac-
10 cordance with the test method and meet the performance standard spec-
11 ified in this section, a written certification has been filed by the manu-
12 facturer with the state fire marshal in accordance with section 4, and
13 amendments thereto, and the cigarettes have been marked in accordance
14 with section 5, and amendments thereto.

15 (b) (1) Testing of cigarettes shall be conducted in accordance with
16 the American society of testing and materials (ASTM) standard E2187-
17 04, "Standard Test Method for Measuring the Ignition Strength of
18 Cigarettes."

19 (2) Testing shall be conducted on 10 layers of filter paper.

20 (3) No more than 25% of the cigarettes tested in a test trial in ac-
21 cordance with this section shall exhibit full-length burns. Forty replicate
22 tests shall comprise a complete test trial for each cigarette tested.

23 (4) The performance standard required by this section shall be ap-
24 plied only to a complete test trial.

25 (5) Written certifications shall be based upon testing conducted by a
26 laboratory that has been accredited pursuant to standard ISO/IEC 17025
27 of the international organization for standardization (ISO) or other com-
28 parable accreditation standard required by the state fire marshal.

29 (6) Laboratories conducting testing in accordance with this section
30 shall implement a quality control and quality assurance program that in-
31 cludes a procedure that will determine the repeatability of the testing
32 results. The repeatability value shall be no greater than 0.19.

33 (7) This section does not require additional testing if cigarettes are
34 tested in a manner which is consistent with this act for any other purpose.

35 (8) Testing performed or sponsored by the state fire marshal to de-
36 termine a cigarette's compliance with the performance standard required
37 shall be conducted in accordance with this section.

(h)

(c)

38 ~~(b)~~ Each cigarette listed in a certification submitted pursuant to sec-
39 tion 4, and amendments thereto, that uses lowered permeability bands in
40 the cigarette paper to achieve compliance with the performance standard
41 set forth in this section shall have at least two nominally identical bands
42 on the paper surrounding the tobacco column. At least one complete band
43 shall be located at least 15 millimeters from the lighting end of the cig-

1 arette. For cigarettes on which the bands are positioned by design, there
2 shall be at least two bands fully located at least 15 millimeters from the
3 lighting end and 10 millimeters from the filter end of the tobacco column,
4 or 10 millimeters from the labeled end of the tobacco column for non-
5 filtered cigarettes.

(d) ~~(e)~~ A manufacturer of a cigarette that the state fire marshal deter-
7 mines cannot be tested in accordance with the test method prescribed in
8 subsection ~~(e)~~ shall propose a test method and performance standard for
9 the cigarette to the state fire marshal. Upon approval of the proposed test
10 method and a determination by the state fire marshal that the perform-
11 ance standard proposed by the manufacturer is equivalent to the per-
12 formance standard prescribed in subsection ~~(e)~~ (3) of this section, the
13 manufacturer may employ such test method and performance standard
14 to certify such cigarette pursuant to section 4, and amendments thereto.
15 If the state fire marshal determines that another state has enacted re-
16 duced cigarette ignition propensity standards that include a test method
17 and performance standard that are the same as those contained in this
18 act, and the state fire marshal finds that the officials responsible for im-
19 plementing those requirements have approved the proposed alternative
20 test method and performance standard for a particular cigarette proposed
21 by a manufacturer as meeting the fire safety standards of that state's law
22 or regulation under a legal provision comparable to this section, then the
23 state fire marshal shall authorize that manufacturer to employ the alter-
24 native test method and performance standard to certify that cigarette for
25 sale in this state, unless the state fire marshal demonstrates a reasonable
26 basis why the alternative test should not be accepted under this act. All
27 other applicable requirements of this section shall apply to the
28 manufacturer.

(b)

(e) ~~(d)~~ Each manufacturer shall maintain copies of the reports of all tests
30 conducted on all cigarettes offered for sale for a period of three years,
31 and shall make copies of these reports available to the state fire marshal
32 and the attorney general upon written request. Any manufacturer who
33 fails to make copies of these reports available within 60 days of receiving
34 a written request shall be subject to a civil penalty not to exceed \$10,000
35 for each day after the sixtieth day that the manufacturer does not make
36 such copies available.

(f) ~~(e)~~ The state fire marshal may adopt a subsequent ASTM standard
38 test method for measuring the ignition strength of cigarettes upon a find-
39 ing that such subsequent method does not result in a change in the per-
40 centage of full-length burns exhibited by any tested cigarette when com-
41 pared to the percentage of full-length burns the same cigarette would
42 exhibit when tested in accordance with ASTM standard E2187-04 and
43 the performance standard in subsection ~~(e)~~ (3) of this section.

(b)

(g) ~~(f)~~ The state fire marshal shall review the effectiveness of this section and report every three years to the legislature the state fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this act. The report and legislative recommendations shall be submitted no later than June 30 following the conclusion of each three-year period.

~~(e)~~ The requirements of subsection (a) shall not prohibit the sale of cigarettes solely for the purpose of consumer testing. For purposes of this subsection, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

(i) ~~(h)~~ The provisions of this section shall take effect and be in force from and after July 1, 2009.

Sec. 4. (a) Each manufacturer shall submit to the state fire marshal a written certification attesting that: (1) Each cigarette listed in the certification has been tested in accordance with section 3, and amendments thereto; and (2) each cigarette listed in the certification meets the performance standard set forth in section 3, and amendments thereto.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) Brand or trade name on the package;
- (2) style, such as menthol, lights, ultra lights, low tar, kings, 100s or other;
- (3) length in millimeters;
- (4) circumference in millimeters;
- (5) flavor, such as menthol, chocolate or other, if applicable;
- (6) filter or non-filter;
- (7) package description, such as soft pack, box or other;
- (8) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
- (9) the date that the testing was conducted.

(c) For the purpose of compliance with this section, the state fire marshal shall accept completed certifications and make the completed certifications available to the attorney general.

~~(d) No later than six months after the effective date of this act the attorney general shall create a directory of cigarette brand styles certified under this act, to be posted on the attorney general's website. The directory shall include the cigarette varieties, brands and styles identified under subsection (b), and shall be updated as necessary. The directory may be combined with existing directories maintained by the attorney general as practicable. Any cigarette listed on the directory shall be deemed to~~

(h) The requirements of subsection (a) shall not prohibit:
 (1) A wholesale dealer, retail dealer or vending machine operator from selling their existing inventory of cigarettes on or after July 1, 2009, if the wholesale dealer, retail dealer or vending machine operator can establish that state tax stamps were affixed to such cigarettes prior to July 1, 2009, and if the wholesale dealer, retail dealer or vending machine operator can establish that the inventory was purchased prior to July 1, 2009, in comparable quantity to the inventory purchased during the same period of time in the prior year. In no event may a wholesale dealer, retail dealer or vending machine operator sell or offer for sale a cigarette in this state that does not comply with this act after July 1, 2010; or (2)

or low tar

- 1 ~~be in compliance with the requirements of this act.~~
- (d) 2 ~~(e) Each cigarette certified under this section shall be retested and~~
 3 ~~recertified every three years. Initial cigarette certifications may be made~~
 4 ~~at any time. Subsequent certifications shall be made before April 15th of~~
 5 ~~the subsequent certification year.~~
- 6 ~~(f) Every manufacturer shall certify cigarettes within the state and be~~
 7 ~~listed on the directory before the manufacturer, a retailer, or wholesaler~~
 8 ~~may legally offer a manufacturer's cigarettes for sale within the state. In~~
 9 ~~order to obtain and maintain a listing on the directory, a manufacturer~~
 10 ~~shall consent to the jurisdiction of the Kansas courts for the purpose of~~
 11 ~~enforcement of this act and shall appoint a registered agent for service~~
 12 ~~of process in this state and identify the registered agent to the secretary~~
 13 ~~of state.~~
- 14 ~~(g) Each time it submits a written certification under this section, a~~
 15 ~~manufacturer shall pay to the state fire marshal a fee of \$500 for each~~
 16 ~~style of cigarettes listed in the certification. The fee paid shall apply to all~~
 17 ~~cigarette styles, identified under subsection (b) within the brand family~~
 18 ~~certified and shall include any new cigarette styles certified within the~~
 19 ~~brand family during the three year certification period. Each year, the~~
 20 ~~state fire marshal may adjust the amount of such fee in order to pay the~~
 21 ~~actual costs of processing, testing, enforcement and oversight activities~~
 22 ~~required by this act.~~
- (g) 23 (h) There is hereby established in the state treasury a separate, non-
 24 lapsing fund to be known as the fire safety standard and firefighter pro-
 25 tection act enforcement fund which shall be administered by the state
 26 fire marshal.
- (h) 27 (i) If a manufacturer has certified a cigarette pursuant to this section,
 28 and thereafter makes any change to such cigarette that is likely to alter
 29 its compliance with the reduced cigarette ignition propensity standards
 30 required by this act, that cigarette shall not be sold or offered for sale in
 31 this state until the manufacturer retests the cigarette in accordance with
 32 the testing standards set forth in section 3, and amendments thereto, and
 33 maintains records of that retesting as required by section 3, and amend-
 34 ments thereto. Any altered cigarette which does not meet the perform-
 35 ance standard set forth in section 3, and amendments thereto, may not
 36 be sold in this state.
- (i) 37 (j) Not later than July 31, 2009, the attorney general shall develop a
 38 directory of all certified cigarettes under this act. The directory shall be
 39 updated as necessary and shall be posted on the attorney general's web-
 40 site. ~~The directory shall include the brands or trade names and styles~~
 41 ~~identified under subsection (b). Any cigarette listed on the directory shall~~
 42 ~~be deemed to be in compliance with the requirements of this act.~~
- (j) 43 (k) The provisions of this section shall take effect and be in force

(e) Every manufacturer shall certify cigarettes within the state before the manufacturer, retail dealer, wholesale dealer or vending machine operator legally may offer a manufacturer's cigarette for sale within the state. In order to obtain and maintain a listing on the directory created under subsection (j), a manufacturer shall consent to the jurisdiction of the Kansas courts for the purpose of enforcement of this act and shall appoint a registered agent for service of process in this state and shall identify the agent to the secretary of state.

(f) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a fee of \$250. The state fire marshal may adjust such fee annually, by rule and regulation, to ensure that such fee defrays the actual cost of processing, testing enforcement, administration and oversight activities required by law.

Unless a wholesale dealer, retail dealer or vending machine operator has actual knowledge that cigarettes do not comply with this act, the wholesale dealer, retail dealer or vending machine operator shall consider any cigarette listed on the directory posted on the website to be lawful to sell in this state for the purpose of compliance with this act by such wholesale dealer, retail dealer or vending machine operator.

1 from and after July 1, 2009.

2 Sec. 5. (a) Cigarettes properly certified under this act shall be
3 marked with the letters "FSC." ~~The marking shall be permanently, legibly~~
4 ~~printed, in 8 point font or larger, around the area of the~~ UPC code.

5 (b) A manufacturer shall apply this "FSC" marking uniformly for all
6 packages, including, but not limited to, packs, cartons, and cases and
7 brands marketed by that manufacturer.

8 (c) Manufacturers certifying cigarettes in accordance with section 4,
9 and amendments thereto, shall provide a copy of the certifications to all
10 wholesale dealers and agents to which they sell cigarettes, and also shall
11 provide sufficient copies of an illustration of the package marking utilized
12 by the manufacturer pursuant to this section for each retail dealer to
13 which the wholesale dealers or agents sell cigarettes. Wholesale dealers
14 and agents shall provide a copy of these package markings received from
15 manufacturers to all retail dealers to which they sell cigarettes. Wholesale
16 dealers, agents ~~and retail dealers~~, shall permit the state fire marshal, the
17 director, the attorney general and their employees to inspect markings of
18 cigarette packaging marked in accordance with this section.

19 (d) The provisions of this section shall take effect and be in force
20 from and after July 1, 2009.

21 Sec. 6. (a) A manufacturer, wholesale dealer, agent or any other per-
22 son or entity who knowingly sells or offers to sell cigarettes, other than
23 through retail sale, that are not listed on the directory as required by
24 section 4, and amendments thereto, or are not marked in accordance with
25 section 5, and amendments thereto, shall be subject to a civil penalty not
26 to exceed \$500 for each pack of such cigarettes sold or offered for sale
27 provided that in no case shall the penalty against any such person or entity
28 exceed \$100,000 during any thirty-day period.

29 (b) A retail dealer who knowingly sells or offers to sell cigarettes that
30 are not listed on the directory as required by section 4, and amendments
31 thereto, or are not marked in accordance with section 5, and amendments
32 thereto, shall be subject to a civil penalty not to exceed \$500 for each
33 pack of such cigarettes sold or offered for sale, provided that in no case
34 shall the penalty against any retail dealer exceed \$25,000 for sales or offers
35 to sell during any thirty-day period.

36 (c) In addition to any penalty prescribed by law, any corporation,
37 partnership, sole proprietor, limited partnership or association engaged
38 in the manufacture of cigarettes that knowingly makes a false certification
39 pursuant to section 4, and amendments thereto, shall be subject to a civil
40 penalty of at least \$75,000 and not to exceed \$250,000 for each such false
41 certification. ~~All cigarettes certified by the violating manufacturer shall~~
42 ~~be removed from the directory required by section 4, and amendments~~
43 ~~thereto, and shall be considered illegal for sale in the state until such time~~

using a marking in use and approved for sale in the state of New York on July 1, 2009, or with the letters "FSC." The marking shall be permanently, legibly printed, stamped engraved or embossed on the package in 8 point type or larger, at or near

or vending machine operator

or vending machine operators

, retail dealers and vending machine operators

do not meet the performance standard of section 3, and amendments thereto,

or vending machine operator

1 ~~as the cigarette manufacturer has paid the civil penalty in full and the~~
2 ~~state fire marshal has confirmed, to its satisfaction, that the manufac-~~
3 ~~turer's cigarettes will comply with the performance standards required by~~
4 ~~section 3, and amendments thereto. A second violation of this subsection~~
5 ~~shall result in the violating manufacturer being prohibited from selling~~
6 ~~cigarettes to consumers within the state for a period not to exceed two~~
7 ~~years. Following the prohibition, the state fire marshal shall again con-~~
8 ~~firm, to its satisfaction, that the manufacturer's cigarettes will comply with~~
9 ~~the performance standards required by section 3, and amendments~~
10 ~~thereto.~~

11 (d) Any person violating any other provision in this act shall be subject
12 to a civil penalty for a first offense not to exceed \$1,000, and for a sub-
13 sequent offense subject to a civil penalty not to exceed \$5,000 for each
14 such violation.

15 (e) Any cigarettes that have been sold or offered for sale that do not
16 comply with the performance standard required by section 3, and amend-
17 ments thereto, shall be considered contraband and subject to forfeiture.
18 Cigarettes forfeited pursuant to this section shall be destroyed. Prior to
19 the destruction of any cigarette forfeited pursuant to this subsection, the
20 true holder of the trademark rights in the cigarette brand shall be per-
21 mitted to inspect the cigarette. ~~A third violation of this subsection within~~
22 ~~two years shall constitute a knowingly false certification by the cigarette~~
23 ~~manufacturer under section 6, and amendments thereto.~~

24 (f) In addition to any other remedy provided by law, the state fire
25 marshal or attorney general may file an action in the district court for a
26 violation of this act, including petitioning for injunctive relief or to recover
27 any costs or damages suffered by the state because of a violation of this
28 act, including enforcement costs relating to the specific violation and at-
29 torney's fees. Each violation of this act or of rules or regulations adopted
30 under this act constitutes a separate civil violation for which the state fire
31 marshal or attorney general may obtain relief.

32 (g) Whenever any law enforcement personnel or duly authorized rep-
33 resentative of the state fire marshal, director, or attorney general shall
34 discover any cigarettes that have not been marked in the manner required
35 by section 5, and amendments thereto, ~~or are not listed on the directory~~
36 ~~as required by section 4, and amendments thereto,~~ such personnel are
37 hereby authorized and empowered to seize and take possession of such
38 cigarettes with or without process or warrant. Such cigarettes shall be
39 turned over to the division of taxation, and shall be subject to forfeiture
40 proceedings. Cigarettes seized pursuant to this section shall be destroyed.
41 Prior to the destruction of any cigarette seized pursuant to this subsection,
42 the true holder of the trademark rights in the cigarette brand shall be
43 permitted to inspect the cigarettes.

for which certification has not been filed

1 (h) Any action taken pursuant to this section is subject to review in
2 accordance with the act for judicial review and civil enforcement of
3 agency actions.

4 (i) The provisions of this section shall take effect and be in force from
5 and after July 1, 2009.

6 Sec. 7. (a) The director, in the regular course of conducting inspec-
7 tions of wholesale dealers, agents ~~and retail dealers~~, as authorized under
8 the Kansas cigarette and tobacco products or other state statutes, rules,
9 or regulations act may inspect such cigarettes to determine if the ciga-
10 rettes are marked as required by section 5, and amendments thereto. If
11 the cigarettes are not marked as required, the director may seize such
12 contraband with or without process or warrant and shall notify the state
13 fire marshal.

retail dealers or vending machine operators

14 (b) The provisions of this section shall take effect and be in force
15 from and after July 1, 2009.

16 Sec. 8. (a) To enforce the provisions of this act, the attorney general,
17 the director and the state fire marshal, their duly authorized represen-
18 tatives and other law enforcement personnel are hereby authorized to
19 examine the books, papers, invoices and other records of any person in
20 possession, control or occupancy of any premises where cigarettes are
21 placed, stored, sold or offered for sale, as well as the stock of cigarettes
22 on the premises. Every person in the possession, control or occupancy of
23 any premises where cigarettes are placed, sold or offered for sale, is
24 hereby directed and required to give the attorney general, the director
25 and the state fire marshal, their duly authorized representatives and other
26 law enforcement personnel the means, facilities and opportunity for the
27 examinations authorized by this section.

28 (b) The provisions of this section shall take effect and be in force
29 from and after July 1, 2009.

30 Sec. 9. (a) There is hereby established in the state treasury a sepa-
31 rate, nonlapsing fund to be known as the cigarette fire safety standard
32 and firefighter protection act fund which shall be administered by the
33 state fire marshal. The fund shall consist of all moneys recovered as pen-
34 alties under section 6, and amendments thereto. The moneys shall be
35 deposited to the credit of the fund and in addition to any other money
36 made available for such purpose, shall be made available to the state entity
37 responsible for administering the provisions of this act to support fire
38 safety and prevention programs.

39 (b) The provisions of this section shall take effect and be in force
40 from and after July 1, 2009.

41 Sec. 10. (a) Nothing in this act shall be construed to prohibit any
42 person or entity from manufacturing or selling cigarettes that do not meet
43 the requirements of section 3, and amendments thereto, if the cigarettes

1 are or will be stamped for sale in another state or are packaged for sale
2 outside the United States and that person or entity has taken reasonable
3 steps to ensure that such cigarettes will not be sold or offered for sale to
4 persons located in this state.

5 (b) The provisions of this section shall take effect and be in force
6 from and after July 1, 2009.

7 Sec. 11. Prior to July 1, 2009, the state fire marshal may promulgate
8 rules and regulations necessary to effectuate the purposes of this act. Such
9 rules and regulations shall not become effective until July 1, 2009. The
10 state fire marshal, director and attorney general may take any other action
11 deemed necessary to prepare for the implementation and enforcement
12 of the fire safety standard and firefighter protection act.

13 Sec. 12. Notwithstanding any other provision of law, a city or county
14 shall not enact nor enforce any ordinance, resolution or other regulation
15 conflicting with, or preempted by, any provision of this act or with any
16 policy of this state expressed by this act, whether that policy be expressed
17 by inclusion of a provision in this act or by exclusion of that subject from
18 this act.

19 Sec. 13. ~~The provisions of this~~ act shall become null and void if a
20 federal reduced cigarette ignition propensity standard that preempts ~~this~~
21 act is adopted and becomes effective.

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

(a) The implementation and substance of the fire safety standards for cigarettes in effect in the state of New York on July 1, 2009, shall be persuasive authority in the implementation of the fire safety and firefighter protection act.

(b) The provisions of the fire safety and firefighter protection

such