Approved: 2-11-10
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 January 28, 2010, in Room 144-S of the Capitol.

All members were present except:
Senator Steve Morris- excused

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:
Todd Burroughs, Kansas Society of Land Surveyors
Randy Anderson, Central Kansas Surveying & Mapping, Inc
Michael Clifford , Kansas Society of Land Surveyors
Ken Parks, President, High Plains Chapter of KSLS
Ron Gaches, for the Kansas Society of Land Surveyors
Melissa Wangemann, Kansas Association of Counties
Darryl Lutz, Kansas County Highway Officials Association
David Yearout, Kansas Association of County Planning & Zoning Officials
Jim Yonally, for the Kansas Association of County Surveyors
Mark Chairs, One Step Ahead
Nancy Niles Lusk,

Others attending:
See attached list.

Chairman Brungardt called for approval of minutes for January 12,13, 19, 20, and 21 distributed on January 25, 2010.

Senator Reitz made a motion to approve the minutes as written. Senator Abrams seconded the motion. The motion carried.

SB 301 - Repealing statutes concerning land surveys relating to monumentation of corners in boundaries of subdivisions.

Chairman Brungardt opened the hearing on **SB 301**.

Staff provided an overview of the bill. (Attachment 1)

Proponents:

Todd Burroughs, Kansas Society of Land Surveyors, spoke in favor of the bill.(Attachment 2) The bill is a repealer and KSA 58-2001 thru 58-2004 deals with the parts and pieces of land surveys including monumentation and section corner perpetuation all of which are covered in the Minimum Standards of Practice and KSA 58-2011. KSA 58-2005 calls for a review by the county surveyor or in the absence of a county surveyor an appointed private surveyor of every survey or plat prior to its recording at the register of deeds office. There are a number of problems associated with this statute.

Randy Anderson, Central Kansas Surveying & Mapping, Inc., provided testimony in support of the bill. (Attachment 3) KSA 58-2001 through 58-2004 are simply outdated and have been superseded by the Minimum Standards for Boundary Surveys. The Minimum Standards have been developed by our professional society and are adopted by regulation by the Kansas State Board of Technical Professions, (KSBTP). KSA 58-2005 has outlasted its intent and necessity and is without merit. In addition, 39 states do not require a plat review before recordation and in the remaining states a review is only applicable in counties with a county or state surveyor.

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on January 28, 2010, in Room 144-S of the Capitol.

Michael Clifford , Kansas Society of Land Surveyors, spoke in favor of the bill. (Attachment 4) The public will still have a system of protection through the KSBTP and through statutes and county subdivision and zoning regulations regulating surveying, and asked the committee for support in repealing outdated and misused laws.

Ken Parks, President, High Plains Chapter of KSLS, spoke in support of the bill.(Attachment 5)Mr. Parks stated that peer review was not necessary to fulfill the requirement that the statutes require.

Ron Gaches, Kansas Society of Land Surveyors, provided testimony in support of the bill. (Attachment 6) The bill if passed into law and the statues repealed, any county that still believes a review of surveys is required can use their home rule powers to require such review.

Luke Bell, Vic President of Governmental Affairs, Kansas Association of Realtors, (Attachment 7) and Chris St. John, , Kansas Land Title Association, (Attachment 8) provided written testimony in support of the bill.

Opponents:

Melissa Wangemann, Kansas Association of Counties,(KAC), spoke in opposition to the bill. (Attachment 9)Ms Wangemann stated that during the interim that all parties who had a stake in this issue, sit down and talk through the issues. KAC formulated a study committee that included members of the Kansas Society of Land Surveyors, highway officials, registers of deeds, mappers, planning and zoning officials, county clerks and a county counselor; they met three times during this time and worked towards a compromise position. The KAS Legislative Policy Committee decided it would oppose outright repeal of the statutes. The major point of opposition is concern about errors on real property records; these mistakes affecting real property interest have an ongoing effect, as it is passed down with every transaction. The public must be able to rely upon the integrity of public real property records. The land surveyors proposing this legislation argue that they are licensed and if they make mistakes the Board of Technical Professions will regulate the problems; that requires that a peer discover the mistake and report it to the Board.

Darryl Lutz, Kansas County Highway Officials Association, provided testimony in opposition to the bill. (Attachment 10) The bill seems to be an effort by a special interest group to eliminate any protections to the landowner at the local level.

David Yearout, Kansas Association of County Planning & Zoning Officials,(KACPZO) spoke in opposition to the bill. (Attachment 11) KACPZO is opposed to the repeal of this section of Kansas Statutes and is prepared to work with the committee and the Legislature to improve the delivery of this service to the citizens of Kansas, and is opposed to the bill as it is written.

Jim Yonally, for the Kansas Association of County Surveyors, (KACS) provided testimony in opposition to the bill. (Attachment 12) KACS would like to be a partner with the Kansas Association of Counties, the Kansas County Highway Association, and hopefully KSLS, to resolve those problems by updating and improving the statutes and working toward a comprehensive solution.

John Smith Liberal, Kansas, provided written testimony in opposition to the bill. (Attachment 13)

Chairman Brungardt closed the hearing on **SB 301**.

SB 342 - Prohibiting the sale of novelty cigarette lighters.

Chairman Brungardt opened the hearing on **SB 342**.

Senator Faust-Goudeau spoke in favor of the bill. (Attachment 14) The legislation was brought forth by members of the Wichita Fire Department in an effort to save the lives of children who have started fires playing with novelty cigarette lighters; this bill is an effort to be proactive to take preventive measures to save lives by banning the sale of novelty lighters.

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on January 28, 2010, in Room 144-S of the Capitol.

Mark Chairs, President, One Step Ahead, provided testimony in support of the bill. (Attachment 15) Mr. Chairs urged the committee to support this bill and keep these tools out of the hands of those who are too inexperienced to know the calamitous consequences that they could bring to themselves and to others.

Nancy Niles Lusk, spoke in favor of the bill.(Attachment 16) Ms. Lusk provided the committee examples of novelty lighters that had been purchased around the state; and the potential danger of toy novelty lighters.

Written testimony in support of the bill was received from the following:

Dr. Jason Eberhart-Phillips, Kansas Department of Health and Environment (Attachment 17)

Safe Kids Kansas (Attachment 18)

Brad Henson, President, Fire Marshals Association of Kansas (Attachment 19)

Mike Hall, President, Fire Education Association of Kansas (Attachment 20)

Patti Peterson, Chair, Fire and Burn Safety Alliance of South Central Kansas, Inc. (Attachment 21)

Edward F. Bricknell, Fire Marshal, Retired, Wichita (Attachment 22)

Craig Gunther, Kansas State Nurses Association, (Attachment 23)

Chief Ron Blackwell, City of Wichita, (Attachment 24)

Debbie Lawson, President, Kansas PTA, (Attachment 25)

Chairman Brungardt closed the hearing on **SB 342**.

The next meeting is scheduled for February 2, 2010. The meeting was adjourned at 11:59 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 1-28-10

NAME	REPRESENTING
Jim Yonally	KACS
Michael Kelly	KACS
Sean Cahalan	KACS
Nancy Niles Lusk	myself
Michelle Sierant	KS PTA
EVES. MAY	K.C., KS PTA REGION I
John Young	KACS
Melissa Wangemann	KAC
George Barbee	KS Bd of Tech Prof
RANDY ANDERSON	KSLS
RON GAERTES	KSLS
Thad Fowler	KSLS
Mike Clifford	KSLS
Steven L. Willett	KSLS
WAYNE BLACKBURN	COFFEY CO. ENGINEER / KACS
Joel A. Wegele	KSLS
R. L. ENGLE, RLS	KSLS
Bill Haverkamp	Ks Society Land Surveyors
TODD BURROUGHS, LS	KS SOC. LAND SURVEYORS
KEN PARKS, PLS	KS. SOC. LAND SURVEYORS
Rule A Seymour LS	Shawnee Co. Surveyor
Debbie Johnston LS	Shawnee County Deputy Surveyor
Marilyn Nichols	Shawnee Co. Register of Deeds
Jean Bolene	Ks Bd of Tech Prof.
Steven S. Brosemer	Ks St. Bd of Tech. Prof.
Darryl C. Lutz	Ks County Highway Assoc.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE_____

NAME	REPRESENTING
Travis Lowe	Lathe Gov't Relations
Craig Gunther	Kansas State Nurses Assoc.
Megan Dirks	Washburn University School of Nursing
Julia Jennings	Washburn University Graduate School of Nursing
Tom Groneman	ABC
Cherie Sage	Kansas Dept Health & Environment
TED HENRY	CAPITOL STRATEGIES.
DAVID YEAROUT	KANSAS ASSOC. OF ~~COUNTY~~ P&Z OFFS
Keith Dabney	Kansas Assoc. Of P&Z & Douglas County
Linda M. Finger	KS Assoc Plng & Zoning / Douglas County
Kay Pesnell	Register of Deeds / Douglas County
Joe Mosimann	PMCA
Mark Chairs	One Step Ahead / Andover KS ~~Mark~~ Butler Co.
Anne Spiess	American Cancer Society

58-2001. Monumentation of corners in boundaries of subdivisions before recording plat; type. All corners in the boundary of a subdivision of land shall be monumented prior to recording of the plat submitted for recording after the effective date of this section. This monument shall be a metallic bar or tube set rigidly in a concrete base.

58-2002. Same; subdivision control; monumentation. Where any section corner, quarter section corner or section center is involved in the control establishing the location of a subdivision boundary, said point shall be clearly monumented and labeled before it is used in the subdivision control.

58-2003. Recording measurements from visible objects to location of point; description; alternative. When any section corner, quarter section corner or section center is set or reset by a surveyor and when any such corner is located by a surveyor in the course of carrying out a public survey, there shall be recorded, in the manner provided by K.S.A. 58-2011, and amendments thereto, reference measurements from permanent, visible objects to the location of the point as set, reset or located. These reference objects shall be described clearly. In lieu of reference measurements from visible objects, such reference measurements may be made from triangulation stations maintained by the national ocean service/national geodetic survey or by utilizing the state plane coordinate system prescribed by K.S.A. 58-20a01 et seq., and amendments thereto.

58-2004. Information required with plats. The following information shall be submitted with all plats for subdivisions of land:

(a) Exterior boundary plat showing: (1) Locations of the monuments, (2) bearings and distances between the monuments, (3) closure calculations.

(b) All horizontal lot calculations and street calculations.

58-2005. Review of plat prior to recordation; certification. Before a subdivision plat or plat of survey may be recorded, it shall be reviewed by the county surveyor. If the county does not have a designated county surveyor, the county engineer shall review the plat if the county engineer also is a registered land surveyor. In the absence of both a county surveyor and a county engineer who is a registered land surveyor the plat shall be reviewed by a registered land surveyor designated by the county. All cost for plat review and approval shall be charged back to the applicant for plat approval. The county shall be responsible for the enforcement of this act. The county surveyor or county engineer shall certify that such plat meets all the requirements of this act. If any such plat is required to be submitted to any planning commission for review and approval or disapproval, such review and approval duly certified upon the face of such plat shall not constitute full compliance with the review required in this section unless reviewed by the county surveyor or county engineer.

KANSAS SOCIETY OF LAND SURVEYORS

Affiliated with the American Congress on Surveying and Mapping
and the
National Society of Professional Surveyors, Inc.

January 25, 2010

Re: SB 301; an act concerning land surveys; repealing K.S.A. 58-2001, 58-2002, 58-2003, 58-2004, and 58-2005

To the Honorable Senator Pete Brungardt, Chairman of the Federal and State Affairs Committee:

The Kansas Society of Land Surveyors supports the passage of Senate Bill 301. The five statutes contained in this bill were initially legislated into law in 1967. Only two (2) of the statutes, 58-2003 dealing with section corner references and 58-2005 dealing with the review process, have ever been revised. This circumstance seems implausible since so many of the conditions propagating these statutes have evolved in the more than forty years since these laws were enacted. For instance, professional land surveyors are now regulated and policed by the Kansas Board of Technical Professions (KBOTP) and have Minimum Standards of Practice as defined in K.A.R. 66-12-1 by which to abide by as well as continuing education requirements. These minimum standards are adopted by the KBOTP as a basis for measuring the quality of work being completed by land surveyors and are updated and revised as our profession changes.

58-2001 thru 58-2004 deal with the parts and pieces of land surveys including monumentation and section corner perpetuation all of which are covered in the Minimum Standards of Practice and K.S.A. 58-2011.

58-2005 calls for a review by the county surveyor or in the absence of a county surveyor an appointed private surveyor of every survey or plat prior to its recording at the register of deeds office. There are a number of problems associated with this statute.

1. There are only a handful of counties that actually have a county surveyor in their employ, which means that the majority of survey reviews are completed by surveyors that are in direct competition with the surveyor submitting the work for review.

2. By submitting surveys to and working through the review process with competitor surveyors you effectively provide your competitor with your customer lists, copies of surveys that they would otherwise have to research and copy at the courthouse like every other surveyor in practice and methods in which you practice.

3. Survey reviews are burdensome in the time frame that they are normally completed, with reviews at times taking from 2 weeks to more than a year to be completed. The party truly affected by this is not the submitting land surveyor but the client (general public) who must wait to close transactions, settle estates, build livestock fencing, etc.

4. Survey reviews affect the general public with the costs of the reviews ranging from $10 to more than $1000. This fee is in addition to the fees paid to the professional land surveyor who actually completed the work.

5. The survey review creates a false sense that the reviewing surveyor has more authority or is more qualified than the submitting surveyor. Each land surveyor is required to adhere to the same standards set out by the KBOTP and is required to pass the same examination. When a client sees that their survey was "approved" by a competing surveyor, the submitting land surveyor risks losing business to the reviewing surveyor because of this false sense.

Sn Fed & State
Attachment 2

1-28-10

KANSAS SOCIETY OF LAND SURVEYORS

Affiliated with the American Congress on Surveying and Mapping
and the
National Society of Professional Surveyors, Inc.

6. Although in an Attorney Generals Opinion only the items contained in 58-2001 through 58-2004 are to be reviewed, in 58-2005, reviewing surveyors continue to respond to submitting surveyors concerning line types, font types, symbol types and labeling among other personal preference items that are included on their survey drawings . The reviewing surveyors also question basis and theories of decisions made by the submitting surveyors in making their surveys. All of which are not to be included in the reviews, according to the Opinion of the Attorney General, and create friction and animosity between land surveyors, the public client and public officials.

As mentioned above when these statutes were established there were no licensing requirements for land surveyors and the KBOTP hadn't been established for oversight. Land surveying was completed by engineers, architects, or anyone else who may have had a tape or other measuring device. Today, the KBOTP has adopted specific education and experience requirements to be eligible to sit for the examination for licensure to become a Professional Land Surveyor. The land surveying profession has been instrumental in placing continuing education requirements and minimum standards for the practice of land surveying on itself. Both of which have been reviewed and adopted by the KBOTP. Land surveyors are the only profession regulated by the KBOTP to adopt a minimum standard of practice.

Today land surveyors are required only to record surveys that create new or original descriptions of property. This type of survey makes up only a fraction of the number of land surveys completed and that could be recorded. Prior to the enforcement of this act land surveyors were compelled to record nearly all of the land surveys they completed. One of the greatest detriments to the general public that 58-2005 has caused is the lack of perpetuation of land survey work throughout this great State of Kansas. With the burden of the time delays, sometimes exorbitant fees, content of the reviews from competitor surveyors as well as county surveyors making the reviews, many professional land surveyors are simply recording only those surveys that are required to be recorded. Thus, a tremendous amount of very valuable land survey work and information is simply not being recorded and therefore is not being perpetuated.

The public will be better served by allowing the regulating agency, the KBOTP, regulate the professional land surveyor in Kansas.

The repeal of this statute would not prevent individual counties from enacting home rule resolutions providing for a review process of their own devise.

The Board of Directors of the Kansas Society of Land Surveyors, the professional association of land surveyors in Kansas, in January of 2009 passed by more than a two-thirds majority a resolution to seek the repeal of these statutes and in early January of 2010, the newly elected Board of Directors voted again by a two-thirds majority to support SB 301.

Sincerely,

Todd B. Burroughs, LS
President
Kansas Society of Land Surveyors

Testimony of Randy Anderson, RLS
Before the Senate Federal and State Affairs Committee
In Support of SB 301 – Repeal of Land Survey Statutes
Thursday, January 28, 2010

Dear Senator Brungardt and Federal and State Affairs Committee Members,

I am contacting you in regard to Senate Bill #301, which calls for the repeal of KSA 58-2001 through 58-2005. I am a registered land surveyor from Great Bend, Kansas. I have been in private practice for 27 years, serving central and western Kansas counties. Land Surveyors and county offices across the state have spent the past 8 years dealing with the irreconcilable issues associated with KSA 58-2005. In the last two years, two different committees were formed in an effort to find a solution to the plat review issues and both were unable to find a resolution. Therefore, the Kansas Society of Land Surveyors Board of Directors has voted to proceed with Senate Bill #301. This bill will be introduced in the Federal and State Affairs Committee on January 28th.

KSA 58-2001 through 58-2004 are simply outdated and have been superseded by the Minimum Standards for Boundary Surveys. The Minimum Standards have been developed by our professional society and are adopted by regulation by the Kansas State Board of Technical Professions.

In 1967, KSA 58-2005 which requires a review of plats of survey by the county surveyor or county engineer prior to recording, was passed to protect the public since there was no other mechanism in place. In 2001, an amended version of KSA 58-2005 was enacted. The amended version continued to require the review of survey plats prior to recording, but was changed to instruct counties without a county surveyor or county engineer to find and appoint any licensed land surveyor to do the review. Even with a county surveyor or county engineer on staff, counties are left to their own interpretation of the statute, resulting in confusion, frustration and finally non-compliance in a number of counties. This amended version has proven to be a burden on counties and counter-productive to the public it was intended to protect.

KSA 58-2005, has been superseded by local subdivision regulations, Minimum Standards for Boundary Surveys, the Land Survey Reference Report Statute, licensure and continuing education requirements and a process for reporting violations of these statutes to the Kansas State Board of Technical Professions (KSBTP). In addition, land surveyors will soon be required to have a formal degree in land surveying to qualify to take the state examination. Therefore, KSA 58-2005 has outlasted its intent and necessity and is without merit. No other profession under the KSBTP is subject to a State statute requiring a peer review. In addition, 39 states do not require a plat review before

Sn Fed & State
Attachment 3

1-28-10

recordation and in the remaining States a review is only applicable in counties with a county or state surveyor.

The original goal of these states was to protect the public from errors and or sub-standard survey practices. However, since 58-2005 is a limited plat review (as verified by AG Opinion 2003-30), it was never intended to detect errors made in the field or substandard survey practices.

In addition to the unnecessary burden the statute has placed on counties, the statute has adversely affected the public through exorbitant fees, delayed real estate closings due to prolonged review processes and by the significant loss in the number of survey plats being recorded since the implementation of the amended version of the statute.

I am asking for your support of SB 301.

Respectfully,

Randy E. Anderson, RLS
Central Kansas Surveying & Mapping, Inc.
2344 Washington
Great Bend, KS 67530
629-792-5754

(4)

Senate Federal and State Affairs Committee
Senate Bill 301 – Repeal of Land Survey Statutes
Comments of Michael Clifford, Licensed Surveyor, Kansas No. 884
January 28, 2010

I want to express my appreciation to the Committee for your service given to the people of Kansas and for taking your time to consider our request for your support of SB 301. A little bit about myself: I have been practicing surveying for 30 years, 18 years in the field with an engineering firm in Wichita and another 12 years as Chief of Survey with the same firm in Topeka. I have been licensed in Kansas for 24 years. During this time I have served as President and Vice-President of the South Central Chapter of the KSLS, as a board member of the KSLS, and currently as secretary/treasurer of the Northeast Chapter.

Via email, I sent to each person on this committee a letter explaining why I support the passage of this bill. The key points of that letter are summarized as follows:

1) The statutes to be repealed were meaningful to the interests of the public when they were created. Further statutes have removed the need for these.
2) The content of these statutes has subsequently been incorporated, for the most part, into the regulations of the Kansas State Board of Technical Professions except for 58-2005, the "review statute".
3) After the origination of these statutes, the practice of surveying was included as a profession to be governed by the KSBTP. The KSBTP was created for the safety, health and welfare of the public and has been granted the power of disciplinary action of those that do not abide by the regulations adopted.
4) The majority of the membership of the Kansas Society of Land Surveyors supports SB 301.
5) The review statute is being abused by the reviewers.

I want to focus the remainder of my time on the review statute from the perspective of being in an urban, municipal environment.

We are before you today because of the problems that have arisen by the misuse of the requirements of review in K.S.A. 58-2005, what we call the review statute. SB 301 covers 58-2001 through 2005 but, honestly, 58-2001 through 58-2004, are not too much of a problem to me. These statutes are included in SB 301 mostly for cleanup of redundant laws and regulations. The essence of these statutes is contained in the Minimum Standards of Practice adopted by the KSBTP and in other statutes. They simply do not need to exist if 58-2005 was to be repealed. As for 58-2005, surveying is well governed by not only the Kansas State Board of Technical Professions (KSBTP), but also by other statutes, county and city subdivision regulations and zoning requirements. In asking for repeal, I do not believe that I am asking for anything that will undermine the safety, health and welfare of the public.

Those that are opposing our efforts may say that there is sufficient bad surveying being done so that the public needs to be protected through the review process granted in 58-2005. I do admit that there are those that need an adjustment. However, in practice that is what the complaint

Sn Fed & State
Attachment 4

1-28-10

process of the KSBTP is for. Because the KSBTP operates by committee decision and is under constant public scrutiny, there is not the opportunity for any one person to exercise power, just because.....or earn an extra buck by heavy handed redlining, just because.....or damage a competitor's client relationship, just because they can under this statute. The power of disciplining an errant surveyor has been given to a governing board sanctioned by the people. We are asking that the power of discipline and chastisement be removed from any unilateral bias from individual reviewers. Please be aware that some county surveyors also conduct their own private practices, and in so doing, are in competition with those they are reviewing. Therefore, K.S.A. 58-2005 is actually mandating that competitors be assigned to review surveys even if there is a county surveyor. This can hardly be seen as a fair practice. The opportunity exists for bias, delay of review and unfair fee structures. Each of these has occurred and are the main reasons why we are here today. I will give you an example of that abuse later.

Why is it a problem now and it was not before? I admit, the original statutes were on the books a long time before they became a problem. So what has changed? The business environment has changed, grafting the public and private sectors together in sophisticated alliances. Trade technology is way beyond that of 1967 giving reviewers an unlimited number of items to require that were not even known of before. County surveyor's positions have diminished dramatically requiring outsourcing to competitors. A word on behalf of reviewers: Under the KSBTP, many reviewers believe they are obligated to review as if the survey was their own in order to protect themselves from liability. This feeling is justified but the extent of the review is far beyond that required in 58-2005. The circumstances for the review statute have changed and I believe 58-2005 is outdated because of that.

In closing, I will share one example of which I am closely associated with the parties involved. A private practicing surveyor turned in a survey plat for review to a county surveyor who, by coincidence, had conducted a survey under his own private practice adjacent to the survey being reviewed. There was a disagreement between the two surveyors in the interpretation of a deed call. Even though the submitted survey plat had all of the elements required under K.S.A. 58-2001 through 2004 appearing, the county surveyor at first refused to approve the survey for filing based entirely upon his disagreement with the decisions of the first surveyor. It wasn't until after much contention and debate, and not until after a successful appeal was made to the county surveyor's superior did he sign off the review. Much time, effort and expense had passed in the meantime. It is not necessary to determine whether the private surveyor or the county surveyor was right or wrong. Because of the review statute, the reviewer had complete authority to reject the survey based on his own personal preferences. This is what we are seeing practiced and are asking for the statute to be repealed. Let us operate under the auspices of the KSBTP and not under arbitrary requirements of reviewers who have no legal oversight over their actions. The regulations of the KSBTP are fair and the KSBTP is easily accessible to the public.

In conclusion, after repeal of these statutes, the public will still have a system of protection through the KSBTP and through statutes and county subdivision and zoning regulations regulating surveying. I ask that you support SB 301, repealing outdated and misused laws.

Thank you for your time and consideration.

(5)

Testimony of Ken Parks
In support of Senate Bill 301 Regarding Land Survey Requirements
Submitted to Senate Federal and State Affairs Committee
Thursday, January 28, 2010

Dear Senators of the Federal & State Affairs Committee:

I come before you today to request your assistance in promoting the Professionalism of Kansas' Land Surveyors by supporting Senate Bill 301.

The Public's confidence in the surveys conduct is of the utmost concern to a Surveyor's business and his livelihood. This confidence is based on the belief that we will uncover all necessary monuments, research all pertinent information, determine the property boundary locations based on historical and present day survey rules, case law and found evidence and accurately locate the property corners on the ground. Doing all of these things correctly builds that necessary confidence and furthers a positive reputation. In the end, all of this work is summarized with a paper drawing. It is at this point that we risk shaking the Public's confidence in our work and our abilities by explaining to them that this drawing has to be reviewed by the "County Survey Reviewer".

As Surveyors, we do not desire to shun our responsibility of protecting the Public with quality work. Quality Surveyors and correct and accurate work are paramount. But, ensuring this can be handled by the Kansas Board of Technical Professions, Survey Minimum Standards, yearly continuing education and internal reviews. These items help protect the confidence we work so hard to build. On the other hand, In my opinion, the review requirement lessens that confidence.

In conclusion, the High Plains Chapter has voted twice to support Senate Bill 301 for many of the reasons you have heard or will hear today. Therefore, we come before you today to respectfully ask for your support of this Bill.

Thank you Senators,

Ken Parks, PLS
President of the High Plains Chapter of KSLS
620-272-7592

Sn Fed & State
Attachment 5

1-28-10

(6)

GACHES, BRADEN & ASSOCIATES

Government Relations & Association Management

825 S. Kansas Avenue, Suite 500 ◆ Topeka, Kansas 66612 ◆ Phone: (785) 233-4512 ◆ Fax: (785) 233-2206

Senate Federal and State Affairs Committee
Senate Bill 301 – Repealing Land Survey Statutes
Submitted by Ron Gaches
On Behalf of Kansas Society of Land Surveyors
Thursday, January 28, 2010

Thank you Chairman Brungardt for this opportunity to summarize the reasons to support passage of Senate Bill 301, a proposal to repeal five unnecessary statutes pertaining to land surveys in Kansas.

1) The original statutes were put into place prior to licensure and state oversight of the land survey profession. If there was a need for them then, we believe that need has been largely eliminated by the licensure and regulation of Land Surveyors by the Board of Technical Professions

2) Licensure of Land Surveyors requires education, experience and passage of a 16 hour examination and licensed surveyors are subject to a continuing education requirement (a minimum of 30 professional development hours every two years)

3) The Kansas State Board of Technical Professions should be the place where any deficiencies in a land surveyors work is reported so that bad surveyors can be properly supervised, restricted in their practice, penalized or have their license revoked

4) The adoption of Minimum Standards of Surveys has created uniform standards for land surveys. The Minimum Standards include monumentation standards and were adopted after the laws requiring mandatory county review were put into place.

5) As technology changes and there is a need for future changes in the state monumentation requirements, the Board of Technical Professions is the most appropriate body to develop and implement those standards. The legislature should not have to perform what is essentially a regulatory function.

6) The current review requirements have resulted in two groups of surveyors, those doing commercial work that needs to be filed and those doing review work. After years of being largely ignored, the review requirements were more rigorously applied following amendment of the law in 1999 allowing counties to contract with private survey firms to conduct the reviews. Application of the mandatory review law has led to petty animosities and a split within the Land Survey community. Many rural parts of the state are served by a small number of surveyors, resulting in surveyors being asked to review their competitors work.

Sn Fed & State
Attachment 6

1-28-10

7) Requiring a mandatory review of a publicly filed survey delays filing and adds to the total cost of preparing a survey. A review can easily cost several hundred dollars and even exceed $1,000. The delay and cost can cause surveys to not be filed with the county unless they are required to be filed by the Minimum Standards. The delays and costs discourage filing surveys that would be useful to the county or public.

8) If the bill is passed into law and the statutes repealed, any county that still believes a review of surveys is required can use their home rule powers to require such review.

Attached for your consideration are letters of support from other interested parties across the state.

Thank you for your time and consideration.

58-2001. Monumentation of corners in boundaries of subdivisions before recording plat; type. All corners in the boundary of a subdivision of land shall be monumented prior to recording of the plat submitted for recording after the effective date of this section. This monument shall be a metallic bar or tube set rigidly in a concrete base.

58-2002. Same; subdivision control; monumentation. Where any section corner, quarter section corner or section center is involved in the control establishing the location of a subdivision boundary, said point shall be clearly monumented and labeled before it is used in the subdivision control.

58-2003. Recording measurements from visible objects to location of point; description; alternative. When any section corner, quarter section corner or section center is set or reset by a surveyor and when any such corner is located by a surveyor in the course of carrying out a public survey, there shall be recorded, in the manner provided by K.S.A. 58-2011, and amendments thereto, reference measurements from permanent, visible objects to the location of the point as set, reset or located. These reference objects shall be described clearly. In lieu of reference measurements from visible objects, such reference measurements may be made from triangulation stations maintained by the national ocean service/national geodetic survey or by utilizing the state plane coordinate system prescribed by K.S.A. 58-20a01 *et seq.*, and amendments thereto.

58-2004. Information required with plats. The following information shall be submitted with all plats for subdivisions of land: (a) Exterior boundary plat showing: (1) Locations of the monuments, (2) bearings and distances between the monuments, (3) closure calculations. (b) All horizontal lot calculations and street calculations.

58-2005. Review of plat prior to recordation; certification. Before a subdivision plat or plat of survey may be recorded, it shall be reviewed by the county surveyor. If the county does not have a designated county surveyor, the county engineer shall review the plat if the county engineer also is a registered land surveyor. In the absence of both a county surveyor and a county engineer who is a registered land surveyor the plat shall be reviewed by a registered land surveyor designated by the county. All cost for plat review and approval shall be charged back to the applicant for plat approval. The county shall be responsible for the enforcement of this act. The county surveyor or county engineer shall certify that such plat meets all the requirements of this act. If any such plat is required to be submitted to any planning commission for review and approval or disapproval, such review and approval duly certified upon the face of such plat shall not constitute full compliance with the review required in this section unless reviewed by the county surveyor or county engineer.

from the desk of . . . Jacque Schulze
REGISTRAR

OFFICE OF PAWNEE COUNTY REGISTER OF DEEDS

Phone (620) 285-3276 715 Broadway FAX (620) 285-~~3802~~ 2908
LARNED, KANSAS 67550-3098

MARCH 25, 2008

RANDY ANDERSON
CENTRAL KANSAS SURVEYING
& MAPPING INC
2344 WASHINGTON
GREAT BEND, KS 67530

HELLO RANDY,
HOW ARE THINGS GOING WITH YOU, I HOPE VERY WELL IN ALL AREAS. I AM FORWARDING YOU THE BILL FROM THAYER SMITH FOR THE MESNER SURVEY, HOPING YOU CAN FORWARD IT ON TO THEM FOR PAYMENT TO THAYER OR KIRKHAM MICHAEL. I TOLD THAYER THAT WE NEVER PICK UP CHARGES FOR REVIEWS. I ALSO RECEIVED A CALL FROM (I THOUGHT SHE SAID) THE NATIONAL SURVEYORS ASSN WANTING TO KNOW HOW THE SURVEY STATUE WAS WORKING FOR ME HERE IN PAWNEE COUNTY. I TOLD HER THAT I AM A SMALL BUSY OFFICE AND I CERTAINLY DIDN'T HAVE TIME TO BE SENDING SURVEYS TO REVIEWERS OR TRYING TO GET THE EXTRA MONEY TO PAY THE REVIEWER. I DON'T SEND DOCUMENTS, CHASE DOWN RECORDING FEES FOR MY REGULAR DOCS SO I SURE DON'T HAVE TIME TO BE DOING ALL THE EXTRA REQUIREMENTS OF A REVIEW OF A SURVEY FROM A PROFESSIONAL REGISTERED LOCAL SURVEYOR. I TOLD HER THAT I FEEL VERY STRONGLY THAT A PROFESSIONAL NOT NEED TO HAVE HIS OR HER WORK REVIEWED. I ALSO TOLD HER THAT WE NO LONGER RECEIVE SURVEYS FROM THOES HAVING THEIR LAND SURVEYED. THEY DO NOT HAVE THE TIME FOR THE EXTRA TIME TO HAVE A SURVEY DONE OR EXTRA MONEY SPENT ON ANOTHERS REVIEW!! SHE JUST ASKED ME IF I DIDN'T REVIEW MY OWN EMPLOYEES WORK? I MUST SAY SHE WAS VERY PROFESSIONAL ON THE PHONE HOWEVER IT SEEMED CLEAR TO ME THAT SHE WAS BACKING THE REVIEW SYSTEM. SHE DID SAY THAT IT WAS NEVER THE INTENT TO HAVE US DO ANYTHING HERE IN THE ROD's EXCEPT TAKE THE COMPLETED SURVEY TO RECORD.

THANKS FOR LETTING ME BEND YOU EAR!

Jacque Schulze

JACQUE SCHULZE

jsrod ~~deeds~~@pawnee.kscoxmail.com

6-4

Barton County
Barton Invests in Growth
Richard A. Boeckman, County Counselor \ Administrator rboeckman@bartoncounty.org

January 26 2010

Senator Ruth Teichman
Kansas State Capital
300 SW 10th Street, Room 236-E
Topeka Kansas 66612

Subj: Senate Bill 301

Dear Senator Teichman,

Senate Bill 301 calls for repeal of KSA 58-2005. I have reviewed KSA 58-2005 and the Barton County Engineer, Clark Rusco, has discussed the impact of this legislation with me.

Barton County is fortunate to have an Engineer. His time is valuable to Barton County since Barton County is very involved in construction and maintenance of the County road and bridge system. Mr. Rusco tells me he spends considerable time reviewing surveys as required by KSA 58-2005. Mr. Rusco believes his time could be better spent on more productive activities, and after a review of KSA 58-2005 I agree with him. I simply cannot see what benefit accrues to Barton County from the requirement that the Engineer review surveys.

Mr. Rusco supports repeal of KSA 58-2005. I agree with his opinion and request you consider Senate Bill 301 favorably.

Yours truly,

Richard Boeckman

cc: Commissioners

Received Time Jan. 26. 2010 10:12AM No. 4706

TAYLOR ABSTRACT AND TITLE CO., INC. *Since 1889*

Deborah Lewis, President
Sandra A. Moffet, Vice-President
titledoc@sbcglobal.net

P.O. Box 305 • 114 West 5th Street
LARNED, KANSAS 67550
Ph. (620) 285-2026 Fax (620) 285-2753

January 25, 2010

Honorable Senator Janis Lee
Kansas State House – Capitol
300 S.W. 10th Ave., Room 125-E
Topeka, KS 66612

Re: Senate Bill #301
An act concerning land surveys

Dear Senator Lee:

I am writing to you in support of the above referenced Senate Bill. This bill, if passed, would repeal KSA 58-2001 through 58-2005, regarding land surveys. It is my understanding that KSA 58-2001 through 2004 are now covered in the surveyors "minimum standard" guidelines and are "out- dated" due to the use of new equipment and other factors. The repeal of those 4 items, therefore, is simply a "housekeeping" issue.

KSA 58-2005, which was amended in 2001 to include a section which required counties without a county surveyor or engineer to find and appoint any licensed land surveyor to do a review of all plats of survey prior to recording, has been an undue burden to our local county as well as most small western counties. The added expense, (anywhere from $70. To $100.), and the time delay has caused most individuals to quit recording their surveys. This, in turn, has put a considerable burden on us as abstracters and title professionals in trying to discern certain legal descriptions without the benefit of a recorded survey.

Those counties that have a county surveyor/engineer on staff could still have a local requirement for a review of a survey prior to recording if that is their desire, but Senate Bill #301, would allow small counties relief from undue costs and delays in recording surveys. Also the goal of 58-2005, which was to protect the public from errors and/or sub-standard survey practices, is not met since the reviews are limited plat reviews, (as verified by AG Opinion 2003-30,) and do not detect errors which may have been made in the field.

Senate Bill #301 will be introduced in the Federal and State Affairs Committee on January 28th. I thank you in advance for reviewing this information and ask for your support of Senate Bill #301.

Sincerely yours,

Deborah Lewis, President

Sandra Moffet, Vice President

Smith, Burnett & Larson, L.L.C.
ATTORNEYS AT LAW

Glee S. Smith, Jr., Of Counsel
Donald L. Burnett
Jerry G. Larson
Ronald D. Smith

Jacqueline R. Butler

111 East Eighth Street
Post Office Box 360
Larned, Kansas 67550
Telephone: 620-285-3157
Fax: 620-285-3159
Email: sbl67550@sbcglobal.net

March 10, 2009

Senator Janis Lee
State Capitol, Room 162-E
Topeka, KS 66612

Senator John Vratil
State Capitol, Room 281-E
Topeka, KS 66612

Re: Senate Bill No. 301

Dear Senator Lee and Senator Vratil,

Randy Anderson is a Registered Kansas Surveyor from Great Bend, Kansas. He is on a committee formed by the Kansas Society of Land Surveyors that is seeking repeal of the Kansas Law that requires review of a survey by a licensed surveyor.

I have enclosed a copy of a letter that I sent to Mr. Anderson explaining why I think this requirement should be repealed.

Senate Bill #301 has been introduced that repeals the requirements for review.

In eastern Kansas everyone is close at hand and it is not so difficult to get a survey reviewed. However, in western Kansas licensed surveyors are few and far between and getting a review often results in needless delay and unnecessary expense.

I would appreciate you support of Senate Bill #301.

Very truly yours,

SMITH, BURNETT & LARSON, L.L.C.

Jerry G. Larson

JGL/sd
Enclosure
cc: Randy Anderson

Smith, Burnett & Larson, L.L.C.
ATTORNEYS AT LAW

Glee S. Smith, Jr., Of Counsel
Donald L. Burnett
Jerry G. Larson
Ronald D. Smith
———————
Jacqueline R. Butler

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Post Office Box 360
Larned, Kansas 67550
Telephone: 620-285-3157
Fax: 620-285-3159
Email: sbl67550@sbcglobal.net

January 13, 2009

Mr. Randy Anderson
2344 Washington
Great Bend, KS 67530

Re: Survey Requirements

Dear Mr. Anderson,

I fully support your efforts to repeal the law that requires surveys prepared by licensed surveyors to be reviewed and approved prior to filing of record. I believe the reason that we have accurate surveys in Kansas is because the surveyors have stringent license requirements and meet continuing education requirements.

I know when I see a survey that has Randy Anderson, Registered Kansas Surveyor on it that the survey is an accurate professional survey. Your surveys have always been accurate and professional, and I am certain if they were anything short of that your license would be in jeopardy. The requirement that a survey prepared by a Kansas registered licensed surveyor be reviewed simply adds unnecessary time, cost and expense to real estate transactions.

I recently needed to record one of your surveys in Ness County, Kansas. Time was short. Ness County uses a reviewer in Garden City, Kansas. The reviewer was on vacation. The reviewer was very accommodating and because of the holidays chose not to send me a bill for the review. The reviewer stamped the survey without corrections. I spent a good deal of time getting your survey stamped for which I could not charge my clients, and the closing was delayed.

I strongly support your efforts to repeal the law that requires surveys to be reviewed, and suggest that the way to continue to insure quality surveys is by the licensing and continuing education requirements that are already in place.

Very truly yours,

SMITH, BURNETT & LARSON, L.L.C.

Jerry G. Larson

JGL/sd

YAHOO! MAIL Classic

Print - Close Window

From: "H. Philip Martin" <hpm@martinlaw.kscoxmail.com>

To: 'lee.@senate.state.ks.us'@nlpi082.prodigy.net, teichman@senate.state.ks.us

CC: cksm@sbcglobal.net

Subject: K.S.A. 58-2005 Review of plat prior to recordation; certification.

Date: Mon, 18 Feb 2008 16:45:00 -0600

Senator Lee and Senator Teichman:

In recent weeks I have learned that a senate bill may be introduced to modify the provisions of K.S.A 50-2005 which sets out specific requirements and directives relating to recording of subdivision plats or plats of survey in the office of the Register of Deeds. From my review the statute was last amended in 2001.

In my practice I handle a considerable number of real estate transactions each year. As a part of the process I have utilized surveys on numerous occasions in confirmation of boundary lines of tracts of real estate that are being conveyed, leased, or mortgaged. This includes transactions for individuals, partnerships, corporations, and governmental entities. In rural Kansas where I practice I have found the required review of a survey or plat prepared by a registered land surveyor by another independent surveyor, where the county does not have a county surveyor or a county engineer to be a cumbersome process. Personally I know that surveys which may be helpful to the direct parties to a transaction as well as third parties such as lending institutions, and those that might utilize the survey in the future are not being filed. This is because the requirements are impractical, cause delay, add expense and may be conducted by a surveyor that is not personally familiar with the properties or is qualified as the individual that originally made the survey.

The property may be useful in a county where a full time paid county surveyor is on board or in urban areas where other qualified surveyors may be available and are willing to timely review the work product of surveyors in such county.

It is my belief that the existing law should be changed and a required review should not encompass each and every county in Kansas. This appears to be a matter that can be addressed by the governing body of each particular county rather than a mandate. Legislatively I am of the impression that appropriate adjustments in the law could be made without great controversy and the needs of particular counties may be addressed.

My feelings as stated above are not made in haste rather I have had opportunity to visit with, inquire of and discuss my thoughts over the last few years with Randy Anderson of Central Kansas Surveying & Mapping of Great Bend, Kansas. I value his professional observations and have had opportunity to work with him in several counties over the years. Additionally I have worked with other surveyors.

I request that both of you carefully review all sides of this issue and that a workable solution may be reached in the near future. It would mean a lot to have affirmative action on a reasonable bill passed both the house and senate in 2008. Please forward me a copy of any bill that may be introduced on this subject. Thank you for your consideration and I hope the remainder of the session goes well.

-Phil Martin
Martin Law Office
P.O. Box D, 702 Broadway
Larned, Kansas 67550
620-285-3813 – Tel.
620-285-3755 –Fax

YAHOO! MAIL Classic

SB 301

Monday, January 25, 2010 11:55 AM

From: "Nita Keenan" <coclerk@gbta.net>
To: "'Ruth Teichman'" <teichman@senate.state.ks.us>
Cc: cksm@sbcglobal.net

Dear Senator Teichman,

We would urge you to support SB 301!!!

Most small counties in the State of Kansas do not have a registered, licensed land surveyor on staff, requiring that each survey be reviewed by an outside engineering firm before recording. The cost for this to our county alone since 2001 has added up to $ 3,869.71. The reviewing of a plat before recording is totally unnecessary. Licensed Surveyors completing the survey are highly trained individuals that should not need to be "policed". The timeline for recording the plats is delayed anywhere from one to three weeks in some instances, thus delaying real estate closings. This step in the process is just another hoop for public entities and/or the tax payers to have to jump through.

Please support SB 301 to repeal the plat review statute in order to relieve the counties and/or taxpayers of the unnecessary cost of the reviews.

Respectfully,

The Stafford County Board of County Commissioners
Lee Suiter
Clayton Grimmett
J.D. Hager, Jr.

Virginia Bressman
Senior Escrow Officer

First American

First American Title Insurance Company
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Tel: 402-697-4667 Direct
Toll Free: 800-364-4111
Fax: 402-333-1242
Email: vbressman@firstam.com

From: Bressman , Virginia
Sent: Tuesday, January 29, 2008 8:19 AM
To: 'Bob Pelshaw'; 'Ted Sleder'; 'Central Kansas Surveying & Mapping Inc. - Larned KS Randy'
Subject: Larned , KS Survey

Randy: Per our discussion, we are trying to close a transaction where the buyer is purchasing 2+ acres out of an existing 6+ acre parcel in Larned , KS . This transaction does not require any kind of subdivision approval to be split out, but in order to record the survey, the state of Kansas requires that the survey be reviewed by a reviewer!?! Somehow, that requirement does not make a lot of sense. The buyer is very anxious to close on the transaction in order to move forward with the construction of a building for their tenant, and yet we have been waiting for a reviewer for quite some time to review a survey that has been prepared by a licensed surveyor. It seems redundant to have two different surveyors review the same survey. We do closings nationwide and find it unusual to see that a survey needs to be reviewed by a second surveyor, even though subdivision approval is not required.

It is critical that this transaction close as soon as possible so that the building can be completed and the tenant can move in and do business (and provide their service to the local community). From a business standpoint, the buyers are losing money each day that this closing is delayed. We appreciate anything that you can do to assist.

Virginia Bressman

Name: EMILY WHITE

County: EDWARDS

K.S.A. 58-2005
Review Statute Questionnaire

Please describe how the review process works or does not work in your county.

When a survey is brought into our office for recording we have to collect the filing fee plus a fee of $75.00 to the County Clerk for the review.

The survey is then sent by certified mail to a Consulting Engineer As we do not have a County Surveyer or County Engineer. Most of the time it takes about 3 to 4 days for the survey to come back to our office.

What specifically are the problems you are experiencing with the review process?
If something is wrong with the survey and has to be redone the Consulting Engineer charges another consulting fee. We have to charge the customer another $75.00.

Our customers are not recording their survey. They feel that they have paid the surveyor to do the work and they should not have to pay to have the survey reviewed.

Are the number of land surveys being submitted for recordation less than, greater than, or about the same as prior to the review process being instituted?
We record less surveys. Most of the surveys we record are required by loan companies as most of the persons having surveys done do not want to pay the fee to have them reviewed.

If the review process does not work in your county, would you support legislation to repeal K.S.A. 58-2005?

Yes our county would support new legislation to repeal K.S.A. 58-2005

Name: Jane Smith

County: Kiowa

K.S.A. 58-2005
Review Statute Questionnaire

Please describe how the review process works or does not work in your county.

We very seldom get a survey to record and I'm sure one reason is the "review" statute. I have heard surveyors say they would not record them, We have no county engineer to review.

What specifically are the problems you are experiencing with the review process?

Since we don't have a County Engineer or anyone else in the County that qualifies, we would have to send surveys out of County to be reviewed at the landowners expense. Not good.

Are the number of land surveys being submitted for recordation less than, greater than, or about the same as prior to the review process being instituted?

less

If the review process does not work in your county, would you support legislation to repeal K.S.A. 58-2005? yes

Go for it Randy, thanks

YAHOO! MAIL Classic

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From: "Tim Schaller" <tim@kans.com>

To: lee@senate.state.ks.us

CC: cksm@sbcglobal.net

Subject: K.S.A. 58-2005

Date: Fri, 25 Jan 2008 14:05:22 -0600

To: Janis Lee
I am writing to ask for your support in repealing the amended version of 58-2005 repealed..This practice adds another needless layer of approval on plats, that can be totally and completely handled by Licensed Land Surveyors...I have had the personal experience of extended wait periods on platt approvals, take as long as 6 months, and then only to discover that the reviewer has little or no knowledge or experience in the process. It is like having your EMT approve the methods for brain surgery of a Licensed Neuro Surgeon. All Licensed Land Surveyors can sign off on a plat, and indicate whether or not it meets all required procedures...Thank You...Tim C. Schaller

Tim C. Schaller - Architect
Schaller Construction, Inc.
P.O. BOX 197 - Larned Industrial Park
Larned, KS 67550
620-285-2950 620-285-2940 FAX
tim@kans.com

Attachments

Files:

Tim_C._Schaller.vcf (632)

YAHOO! MAIL Print - Close Window

From: "bruce berkley" <obcorod@ruraltel.net>
To: cksm@sbcglobal.net
Subject:
Date: Fri, 16 Jun 2006 11:18:49 -0500

Dear Randy

Thanks for the phone call. I had received your information, but I wasn't sure that I wanted to get involved with this issue. Since I first addressed this issue (2000) I haven't been in favor of it. I've disagreed with the AG opinion in 2000-011 (http://www.kscourts.org/ksag/opinions/2000/2000-011.htm). I don't understand the legislature's desire to create a works project for land surveyors by having a review of every survey they prepare. My thinking is that it is better to have the survey on record so it isn't lost when someone 20 years in the future wonders how the survey was done. I couldn't find any case law that said that a filed survey was, by law, the only correct survey. My opinion was that the legislature only meant to review subdivision plats. I'm an attorney, so my opinion carries the same weight at the AG's opinion. Until the court decides differently I'm going to stand by my decision to NOT require a review on boundary surveys.

My main problem with the review is that it makes the licensed land surveyors look incompetent or corrupt. Everyone makes mistakes, but if mistakes are so common that a review is required on EVERY survey than maybe you need to review your licensing procedure?? If that is not the case than it appears that it is a "works" project for surveyors. I can understand a review on a subdivision plat. Everyone will depend on the markers set, but that isn't true for a boundary survey. Also, the only way to truly see if the survey is correct is to go out in the field and do it again. I don't think that is what the legislature had in mind. Additionally, I don't want to be the one to tell a customer "Sorry that you spent $1,000+ to have your land surveyed but I'm going to have to charge you another $500 to have it reviewed by another surveyor". We get $100,000+ mortgages from banks and we don't send those out to other banks to see that they are done right. If a mortgage is wrong they could lose their security interest (read money), but what happens if a survey is wrong? Nothing!! Another surveyor files his survey and that is it (it would probably go to court at this point, but not because of the survey, but rather because of the owners). According to your article the surveyor that thinks someone was wrong would have recourse through your board.

However, having seen how your board handles these matters I'm not sure they are professional enough to make the hard choices. I had a local abstractor file several surveys because the first one was wrong. In the latter surveys the licensed surveyor wrote across his seal "without recourse". The abstractor wondered what that meant and if it was legal. The board agreed and said that the surveyor could do that. How would a review help on this? Does the board not have the guts to discipline this surveyor?? If you want to keep the high standards of a profession you need to weed out those that are not qualified.

These are just my thoughts and opinions. My association knows that I'm very vocal on certain issues. This happens to be one of them. Good luck with your efforts to change KSA 58-2005.

Bruce Berkley
Osborne County
Register of Deeds
OsborneCounty.org

Thad T Fowler
Professional Land Surveyor

PO Box 3 Lyndon, Kansas 66451
Telephone: (785) 224-4072 Email: thadtfowler@hotmail.com

Regarding: Senate Bill 301; AN ACT concerning land surveys; repealing K.S.A. 58-2001 through 58-2005.

Honorable Senators of the Federal and State Affairs Committee:

Please accept this correspondence as my expression of support for Senate Bill No. 301. I am a land surveyor licensed to practice in the State of Kansas since 1984 and am a member of the Kansas Society of Land Surveyors, serving as its Vice-President the past two years and previously as a member of its Board of Directors.

The affected statutes, while having their virtue when they were enacted in 1967, have now become a detriment to the land surveying profession, to the citizens of the State of Kansas, and to the conduct of commerce in general.

At their inception, these statutes were to act as a statutory guideline for the practice of land surveying during a period in time when no other guidelines existed. The required review was to be performed by the county surveyor and was to pertain to the requirements of the act creating this set of statutes. Subsequently, K.S.A. 58-2005 has been revised to allow counties without a licensed land surveyor in their employ to designate a land surveyor to perform these reviews. The results have been destructive in many aspects. There is no consistency to the review. There are delays in real estate closings due to untimely reviews. There is added cost to the consumer for reviews. The recordation of surveys not required to be recorded has dwindled. The list continues, but those I have mentioned are paramount.

Since these statutes were enacted, the Kansas State Board of Technical Professions was created to, in part, provide oversight and discipline over the profession of land surveying; Minimum Standards for Boundary Surveys have been adopted; and mandatory continuing education is now regulated. Simply put, these statutes have outlived their intent and have been effectively replaced by current rules and regulations.

The repeal of these statutes will not go uncontested. My personal belief is the majority of the opposition will come from land surveyors now performing these reviews. Consider though, that the Board of Directors of the Kansas Society of Land Surveyor, elected by their peers, has now twice voted to seek this repeal. Consider also that any county that so wishes to have a review process may do so under their home rule powers.

In closing, it is my sincere hope that your committee will look favorably on Senate Bill No. 301 and speed it on its way to fruition.

Respectfully,

Thad T Fowler

Thad T Fowler, PLS
Kansas License No. 841

(7)

KANSAS Association of REALTORS®

Luke Bell
Vice President of Governmental Affairs
3644 SW Burlingame Rd.
Topeka, KS 66611
785-267-3610 Ext. 2133 (Office)
785-633-6649 (Cell)
Email: lbell@kansasrealtor.com

To: Senate Federal and State Affairs Committee

Date: January 28, 2010

Subject: **SB 301** -- Elimination of the Mandatory Review Requirements for Land Surveyors

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, thank you for the opportunity to submit written comments on behalf of the Kansas Association of REALTORS® in support of **SB 301**. Through the comments expressed herein, it is our hope to provide additional legal and public policy context to the discussion on this issue.

KAR has faithfully represented the interests of the nearly 9,000 real estate professionals and over 700,000 homeowners in Kansas for the last 90 years. In conjunction with other organizations involved in the housing industry, the association seeks to increase housing opportunities in this state by increasing the availability of affordable and adequate housing for Kansas families.

SB 301 would eliminate the mandatory review requirements that inflate the cost and cause delays in the recording of land surveys needed to establish new plats or subdivisions in Kansas. Since these requirements were placed in statute prior to the licensure and regulation of land surveyors by the Kansas State Board of Technical Professions, we believe these requirements are burdensome, duplicative and unnecessary.

Although we have no position on the original need for the mandatory review requirements, we believe any need that could be articulated for these requirements has been overtaken by the licensure and regulation of land surveyors in Kansas. If a particular land surveyor causes any deficiency in a recorded land survey for a new plat or subdivision, then that land surveyor can be properly disciplined and regulated by the Kansas State Board of Technical Professions.

In our opinion, requiring a mandatory review of all recorded land surveys causes a delay in the recording of these important documents, leads to drastically increased costs for property owners and causes many property owners to choose not to record their survey unless they must be filed under the minimum standards. As a result, we believe any possible benefits that could be derived from the mandatory review requirements are outweighed by the problems expressed above.

While these standards might have been prudent or necessary in another era of Kansas history, we believe the provisions contained in these statutes are now arbitrary and inflexible. Accordingly, we would like to express our strong support for the Kansas Society of Land Surveyors in bringing forward the provisions of **SB 301**.

For all the foregoing reasons, we would urge the Senate Federal and State Affairs Committee to strongly support the provisions of **SB 301**. Once again, thank you for the opportunity to provide comments on **SB 301** and I would be happy to respond to any of your individual questions at the appropriate time.

Sn Fed & State
Attachment 7

1-28-10

(8)

KANSAS LAND TITLE ASSOCIATION
7321 N.W. Rochester Rd., Topeka, Kansas 66617
WWW.KLTA.ORG

To: Senate Federal and State Affairs Committee

From: Chris St. John, KLTA President-Elect and Legislative Chair

Date: January 27, 2010

Subject: SB 301 – Testimony in Support of Senate Bill 301

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, thank you for the opportunity to offer written testimony on behalf of the Kansas Land Title Association (KLTA). KLTA represents 156 title companies throughout Kansas.

The Kansas Land Title Association supports Senate Bill 301 removing KSA 58-2001 through KSA 58-2005 which are outdated and now superseded by the Minimum Standards for Boundary Surveys. The limited plat review in KSA 58-2005 does not detect errors made in the field or substandard survey practices. The review has adversely affected the public through exorbitant fees and delayed real estate closings due to the prolonged review process.

Respectfully submitted,

Chris St. John
Kansas Land Title Association
President-Elect and Legislative Chair

Sn Fed & State
Attachment 8

1-28-10

KANSAS ASSOCIATION OF COUNTIES

TESTIMONY TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
ON SB 301
JANUARY 28, 2010

Mr. Chairman and Members of the Committee:

I am Melissa Wangemann, General Counsel for the Kansas Association of Counties. I appear today in opposition to SB 301.

SB 301 was introduced last year. Prior to its introduction, KAC had suggested to the Kansas Society of Land Surveyors that all parties having a stake in the issue sit down and talk through the issue. We had intended to discuss the issue during the summer of 2009. We thought our invitation had been accepted and were surprised to see that a bill was introduced late in 2009. The legislature did not have time to work the bill, and the parties did in fact spend time during the interim discussing this matter.

KAC formulated a study committee that included members of the Kansas Society of Land Surveyors, highway officials, registers of deeds, mappers, planning and zoning officials, county clerks and a county counselor. We met three times during the interim and worked towards a compromise position. Each representative was to solicit feedback on our proposals from his/her respective group; the KSLS representatives informed us that KSLS decided it would continue with its legislation in the 2010 session.

The KAC Legislative Policy Committee decided it would oppose outright repeal of the statutes. The major point of our opposition is concern about errors on real property records. Mistakes affecting real property interests have an ongoing effect—they last forever—as they pass down with every transaction. The public must be able to rely upon the integrity of public real property records.

The land surveyors proposing this legislation argue that they are licensed and if they make mistakes the Board of Technical Professions will regulate the problems. First, that requires that a peer discover the mistake and report it to the Board. Secondly, that disciplinary action lags behind the damage already done on the public record. Lastly, the resolution of the land title problems will only be cured through a lawsuit.

300 SW 8th Avenue
3rd Floor
Topeka, KS 66603-3912
785•272•2585
Fax 785•272•3585

We heard during our interim discussions that Registers of Deeds often act as the gatekeepers, catching the mistakes in surveys and returning them to land surveyors for correction. This revelation is another reason we oppose the elimination of the review by the county surveyor. I have attached a report from Lyon County that lists the percentage of surveys returned for correction by the Register of Deeds Office.

We also heard that standards are not uniform from one county to county. We agree that is the case, but instead of using that as an excuse to repeal the laws, we would like to work towards creating uniform standards so that the public can rely on the public record from one county to the next. Repealing the state law means every county will develop its own standards, if any, and the standard for recording land records will be non-uniform across the state. A proposal submitted to the interim study group by past presidents of KSLS suggested revising the statutes, not repealing them. I have attached a letter outlining their proposal.

We are willing to continue the dialogue on this issue in hopes of finding a compromise that ensures accurate real property records for Kansas citizens.

I would be happy to stand for questions.

Respectfully Submitted,

Melissa A. Wangemann
General Counsel and Director of Legislative Services

Lyon County Summary of Survey Reviews

Year	Surveys Received	Returned for Corrections	Percent Returned
2005	78	22	28
2006	69	19	28
2007	72	17	24
2008	80	18	23
2009	81	20	25

Summary of Survey Reviews

Board of Directors
Kansas Society of Land Surveyors

April 25, 2009

Dear Board Members:

We applaud your decision to work with the Kansas Association of Counties and other stakeholder groups in seeking a solution to the survey review issues. Rather than just addressing the review issue we feel this is a unique opportunity to gain consensus on a broad range of survey related issues. As a professional organization we should seize this moment to move both the surveying profession and land surveying forward in this state.

Quite frankly, our professional image should be much better with both the public and related professionals. Too often the profession that was created to establish permanent boundaries is the source of boundary disputes. We seem to disagree more than agree, and that has resulted in multiple corners that reflect so poorly on our profession. We have to have better records and history to base our decisions or we will continue to struggle with our professional image. We would like the stakeholder group to consider the following proposal to move our profession to the next level:

1. Revise 58-2001-2004: Modernize language to current practice on subdivision monumentation and calculations. Delete requirement for concrete around bars.
2. Revise 58-2005: Require subdivision review only in counties with a county surveyor.
3. Revise 58-2005: Delete the requirement for plat of surveys to be reviewed prior to recording unless the county commission requires it by resolution.
4. Revise 58-2005: Allow additional review requirements to fit local conditions if implemented by resolution of the county commission.
5. Require property boundary surveys to be recorded at the register of deeds. Allow county commission to specify a different office to permanently file survey records.

The recording requirements are probably the most controversial among surveyors. As licensed surveyors we must begin building a legacy for future surveyors like the government surveyors and the county surveyors did before us. We will never build this legacy or progress as a profession unless we permanently and publicly preserve our efforts.

Thank you for considering our ideas and concerns.

Past President's of KSLS

Murray Rhodes 1979*
Eugene G. Hass 1980
Norman Bowers 1981
Galen S. Lay 1984
Steven Brosemer 1988-89
John Young 1990**
Warren Chip Woods 1991-1993
Arthur G. Griffiths 1994-95
Doug Farrar 1998-99, 2007-08
Dan Garber 2000-01
William Haverkamp 2002
Mark Savoy 2003-04
Larry Graham 2005-06

*Murray had reservations about required recording.
**John generally agrees with the proposal, but there should be no exception to recording at the Register of Deeds, however an additional office could be designated by the county.

(10)

Kansas County Highway Association

Chip Woods, President

Dale Pfannenstiel, President Elect

Tom Kramer, Secretary-Treasurer

1115 W. Avenue A, McPherson, KS. 67460-5241

TESTIMONY
Concerning Senate Bill 301
Presented by Darryl C. Lutz, P.E., Butler County Engineer & Legislative Committee Chairman of the Kansas County Highway Association

January 28, 2010

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, my name is Darryl Lutz, Butler County Engineer and Legislative Committee Chairman of the Kansas County Highway Association. I appreciate the opportunity today to present my remarks concerning Senate Bill 301.

The Kansas County Highway Association (KCHA) consists of the County Engineers and Road Supervisors of Kansas Counties. Usually the county surveyors work within the county road and bridge departments so our association is well aware of the survey review issues and benefits.

The Kansas County Highway Association is opposed to Senate Bill No. 301, because it eliminates existing protection of land owners that have been in place since the 1960's. The bill not only eliminates review of surveys and subdivision plats, but eliminates monumentation and reference requirements for subdivisions. The county surveyor review protects land owners by discovering errors before the survey is recorded. If this bill is passed the land owner remedy for a bad survey will be to file suit in district court. This remedy is not even available if the error is discovered years after the survey is made, as the surveyor may no longer be in business, or live in the state.

We understand there are survey issues that need to be addressed, especially in the less populated counties. This last year an Ad Hoc Committee has tried to reach a compromise with the Kansas Society of Land Surveyors. KAC offered compromise language which would probably solve 90% of the issues, but the survey society rejected compromise and have not moved from their original position. Senate Bill 301 seems to be an effort by a special interest group to eliminate any protections to the landowner at the local level.

The Kansas County Highway Association supports the legislative platform of the Kansas Association of Counties (KAC) which retains reviews of subdivision plats only and gives counties an option to review boundary surveys before recording. The KAC platform is similar to a proposal given to the Board of Directors of the Kansas Society of Land Surveyors by 13 of the 15 living past presidents of the Kansas Society of Land Surveyors. The past presidents proposal is attached to this testimony. This letter shows there are respected surveyors that believe this effort to repeal the review laws are misguided.

Sn Fed & State
Attachment 10

1-28-10

The survey laws of Kansas, generally the county surveyor laws and these review laws have not been updated since the profession of land surveying was established by the legislature in the late 1960's. An update of these laws is overdue. Some of you may remember a number of years ago our association was successfully involved in updating the road laws of Kansas. The Kansas County Highway Association would like to lead the comprehensive review of the survey laws and bring recommendations back to you in the next session. This effort would be lead by our Land Survey Committee Chairman, a well respected surveyor, David Nowak, Saline County Surveyor. The Kansas County Highway Association will make every effort to engage the Kansas Society of Land Surveyors in this review process to help assure that the interests of the citizens, the Counties and the survey profession are balanced.

Thank you again for the opportunity to testify to the KCHA's position on SB 301 before this Committee.

Respectfully submitted,

Darryl C. Lutz, P.E.
Butler County Director of Public Works/County Engineer
Chairman, KCHA Legislative Committee

Cc: Melissa Wangemann, Chief Counsel, KAC
Norm Bowers, Local Roads Engineer, KAC
Chip Woods, Lyon County Engineer & KCHA President

Board of Directors
Kansas Society of Land Surveyors

April 25, 2009

Dear Board Members:

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Quite frankly, our professional image should be much better with both the public and related professionals. Too often the profession that was created to establish permanent boundaries is the source of boundary disputes. We seem to disagree more than agree, and that has resulted in multiple corners that reflect so poorly on our profession. We have to have better records and history to base our decisions or we will continue to struggle with our professional image. We would like the stakeholder group to consider the following proposal to move our profession to the next level:

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Thank you for considering our ideas and concerns.

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*Murray had reservations about required recording.
**John generally agrees with the proposal, but there should be no exception to recording at the Register of Deeds, however an additional office could be designated by the county.

(11)

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

SB 301

Thursday, January 28, 2010

TESTIMONY

of

David L. Yearout, AICP

on behalf of the

Kansas Association of County Planning and Zoning Officials

Sn Fed & State
Attachment 11

1-28-10

Honorable Pete Brungardt, Chair, and Members of the Senate Federal and State Affairs Committee, thank you for the opportunity to appear before you today in opposition to SB 301. My name is David Yearout. I am a Director of the Junction City/Geary County Planning and Zoning Department. I am also a member of the Kansas Association of County Planning and Zoning Officials (KACPZO), which is affiliated with the Kansas Association of Counties. I appear before you today on behalf of KACPZO.

HB 301 is a simple bill that, if enacted, would remove a provision of State law that has served the citizens of Kansas since 1967; namely that when property is surveyed, appropriate monumentation be installed and documentation of that act is filed for public record. This has provided a clear record of those past actions which have been beneficial to property owners all over the State for many years. What appears to be driving the movement to repeal these laws is a perceived problem that is not beneficial to the public interests.

KACPZO, along with KAC and numerous other interests that deal with these matters on a daily basis, met several times over the past summer and fall to address what we acknowledge is some inconsistency of how the full meaning of these statutes are implemented at the local level. In particular, as far as KACPZO is concerned, our biggest value of this law is the requirement of having the "county surveyor" acknowledge a "review of the subdivision plat prior to recording." Many counties have used this process to assist in assuring some accuracy of the subdivision plats submitted for local approval. But the concern is an apparent inconsistency in what that "review" should address. Many of our members, including myself, believe the Board of Technical Professions can develop more specific standards for a subdivision review by a County Surveyor. And those standards may be different than what is required for the

preparation of the full survey. I will leave it to the survey professionals to articulate what those details need to be.

Others within KACPZO have provided suggestions that also address the idea that the local County governing bodies could "opt out" of certain local review and filing requirements. There even have been proposals made to this entire body of law (Chapter 58, Article 20) to modify the language to both clarify what most feel is the intent of the statute, and to enhance local options and improve the service to the public. Let me share a quote from another KACPZO member, Linda Finger of Douglas County, shared during the effort last summer to find a realistic solution in response to the push to repeal these statutes; "Mine is a simple point and one the KAC Survey Committee discussed on several occasions. Eliminating the sections recommended in SB 301 is a draconian approach to resolving the issues that some in Western Kansas have with the existing statutes. Clarification and revision, as recommended by the committee, is the reasonable approach to take. The regulations should clarify that opting out of a requirement, when it is in an individual county's best interests, is an option. This ensures the decision that affects local land transactions is thoroughly vetted at the local level and a conscious action is taken to match the local interests with the state regulations." We are prepared to provide the suggested modifications if the interest is to make positive changes to the statutes rather just "kill the law."

In conclusion, KACPZO is opposed to the repeal of this section of Kansas Statutes and is prepared to work with this committee and the Legislature to improve the delivery of this service to the citizens of Kansas. However, please understand that KACPZO opposes SB 301 as it is written. Thank you for your time today and we ask for your support of our position to not send SB 301 forward. I am happy to stand for any questions.

(12)

Kansas Association of County Surveyors

Testimony in opposition to Senate Bill 301
Presented by Jim Yonally, for the Kansas Association of County Surveyors

Chairman Brungardt and members of the committee, my name is Jim Yonally, representing the Kansas Association of County Surveyors (KACS).

Proponents of SB301 have contended in the past that required reviews are burdensome and not working. We do not dispute that several counties have problems and we strongly advocate modification and modernization of the statutes to correct existing problems in those locations where they are occurring. Much effort by members of the many organizations connected to this issue has been expended in working toward a solution that will correct problems occurring in some counties, while leaving the general protections for the public in place for all Kansas citizens. All stakeholders should be willing to continue this effort toward resolution.

The KACS represents County Surveyors statewide that are in place to protect the public. All of our members are also members of KSLS. Further, we are officials on the front lines and we see the errors and problems in the surveys performed. We know the extent to which our reviews protect the public. Statewide, the majority of survey plats are rejected by us for noncompliance with the statutes. We recognize there are problems in the review process in some counties and we, as an association, are working to resolve them. We want to be a partner with the Kansas Association of Counties (KAC), the Kansas County Highway Association (KCHA), and hopefully KSLS, to resolve those problems by updating and improving the statutes.

Without reviews many violations may languish in the records for years before they are discovered, and it is common knowledge that many violations that are discovered go unreported. Property may transfer and improvements may be made prior to the mistake being discovered. The result pits property owners against each other and leaves their fate in the hands of the courts. The very fabric of property ownership is dependent on the public land survey system and accurate, complete, properly recorded land surveys of all subsequent subdivisions of the original patents. Uniformity across the state in these matters is essential to property taxation upon which the State of Kansas relies for revenue. The State would be remiss in leaving these matters to County option which would create even more disparities and problems than currently exist due to a lack of compliance with the statutes.

We ask that this Committee not advance this bill and send the parties back to continue to work on compromises that will be beneficial to both the public and the surveying profession. Reasonable solutions can be proposed by KAC and the Past Presidents of the Kansas Society of Land Surveyors. The KACS stands prepared to work with all stakeholders toward a comprehensive solution.

Sn Fed & State
Attachment 12

1-28-10

(13)

JOHN T. SMITH ASSOCIATES, INC.

Land planning, development & management # investments # real estate brokerage
404 N Kansas Ave # Liberal, KS 67901-3330 # vox/fax 620-624-1834 # jtsa@liberal.net

Saturday, January 23, 2010

Sen. Pete Brungardt, Chm.
Federal and State Affairs Comm.
Capitol Office, Room: 136-E
Topeka, KS 66612

Re: SB 301

Sen. Brungardt,

It has been brought to my attention that your committee will be holding a **hearing on SB 301** next Thursday January 28. Please accept **this letter expressing my concerns** with the Bill and repeal of the sections cited.

From my experience in planning, real estate development & management, and as a realtor, I believe passage of SB 301 is not warranted for the following reasons.

1. Removal of current requirements to monument all subdivision boundary corners will make it virtually impossible for land owners to physically locate their property.
2. Failure to establish, and more importantly maintain, any monuments will forever compromise the basic foundation and integrity of our system for the subdivision, transfer and titling of real property.
3. Removal of a requirement to provide location information (lot & boundary bearings and distances, closure calculations, etc) with subdivision plats will leave no source of data or the ability of subsequent property owners or the public to identify, locate and transfer property rights with any degree of certainty or accuracy.
4. All plats and subdivisions are by nature subject to human error in their creation, and once recorded run with the land for generations. Removal of any requirement for review (and error correction) should not be seen as an indication of incompetence but as an assurance and verification of the land owners' intent and as a protection of the public interest in maintaining a viable system of describing, recording, locating and transferring ones property rights.
5. Removal of all sections cited in the bill will increase the probability of clouds to titles and add considerable cost to property owners and the public in finding, maintaining and reconstruction of such data on subsequent land transfers, splits, re-subdivisions, etc.
6. Without retaining the sections cited in the bill, it would seem possible to be creating a private or proprietary property location data base wherein only certain engineers/surveyors retained data necessary for identifying and locating property with such data unverified and unavailable to the public; also incurring problems of data succession with an unknown custodian (the surveyor or engineer) of that data or the cost to recreate it.

For the above reasons I do not believe SB 301 is in the best interest of Kansans and **I do not support SB 301**.

Sincerely,

John T Smith, AICP, Realtor

Sn Fed & State
Attachment 13

\SB 301 ltr for hearing 012810

1-28-10

(14)

STATE OF KANSAS

OLETHA FAUST-GOUDEAU
SENATOR, 29TH DISTRICT
PO BOX 20335
WICHITA, KANSAS 67208
316-652-9067
Office: STATE CAPITOL BUILDING—134-N
TOPEKA, KANSAS 66612
(785) 296-7387
(SESSION ONLY) 1-800-432-3924
email: Oletha.Faust-Goudeau@senate.ks.gov

TOPEKA
SENATE CHAMBER

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: FEDERAL AND STATE AFFAIRS
ETHICS AND ELECTIONS
MEMBER: COMMERCE
LOCAL GOVERNMENT
JOINT COMMITTEE ON ARTS AND CULTURAL RESOURCES
JOINT COMMITTEE ON CHILDRENS ISSUES
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT

To: Sen. Pete Brungardt, Chairman
Senate Federal and State Affairs Committee

From: Sen. Oletha Faust-Goudeau

Date: January 28, 2010

Re: SB 342 by Senator Faust-Goudeau

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to testify today in support of Senate Bill 342. This legislation was brought to my attention by members of the Wichita Fire Department in an effort to save the lives of children who have started fires playing with novelty cigarette lighters and even set themselves on fire with them. This legislation is an effort to be proactive, to take preventive measures to save the lives of our children.

As you can see, I have a display of the types of lighters we are talking about. I'm sure you have noticed how many of them would be attractive to children, both because they appear to be toys and also because they are something that would make the children feel that they are adult.

The size of the lighters is perfect for a child's smaller hand, and it doesn't take much strength to operate them. Unfortunately, when the fire comes out, children do not know how to be careful that the fire does not spread to their surroundings. I am told there have been incidents when children as young as three years old have started fires with lighters they took from their mothers' purses. So you can see that allowing <u>any</u> lighter of this type is a danger to the child and the other people who live with him or her.

Now, the Director of the Budget has given us a hefty fiscal note, but the most important line in it is "The Department of Revenue indicates that it cannot determine the costs of administering SB 342 . . ." I fear that the Director is making this harder than it is.

This law can be enforced with the bureaucracy we already have in place to deal with the sale and display of cigarettes. When that inspector visits a store that sells cigarettes, the inspector can look to see whether these lighters are displayed on or behind the counter. There are also inspectors who go to stores that do not sell cigarettes who can look to see if novelty lighters are there at the same time they are inspecting for other items.

I, therefore, respectfully disagree with this fiscal note and plead that there would be almost NO fiscal result of passing this law.

I urge your support and approval of the bill and I thank you for your time and attention this morning.

Sn Fed & State
Attachment 14
1-28-10

One Step Ahead

"Preparing you for Fire Emergencies."

January 28, 2010

Honorable Chairman Pete Brungardt and Distinguished Members of the Committee:

Thank you for the privilege and opportunity to express how this Bill, if passed has the potential to save hundreds of lives and save millions in property loss for our State.

Last year I shared with this committee how I have personally seen first hand how fire can affect a family, and the damage it can cause to property. I related to you when I was a child how my younger brother, two aunts and two cousins were burned in a fire in my grandparents home at a family gathering, and how that my two year old cousin survived burns sustained over 80% of her body.

Her scars being a reminder of the horrible affects fire can have on a child's life. Although I have have since retired from the Fire Service after serving for 25 yrs. I am still an advocate of fire prevention and safety and feel strongly of the importance that this Bill if passed, will have a positive impact on our State.

Others too across our State have had similar tragic experiences. I was privileged to serve as the first President of our local Youth Fire Intervention Resource and Education (Y-FIRE) program in Wichita which served as a model for 13 other Chapters throughout our State. Serving their communities by assisting families with youth's having fire setting behaviors.

Their need not be anymore confusion. Cigarette lighters are tools not toys. The distinction can be made clear by banning the sale of novelty lighters.

Last year I worked as a juvenile detention officer. As an officer we were to required to provide a monthly activity for the children. My activity encouraged career opportunities. I shared with them some of the programs that I had developed and been involved in to help the community. One youth reluctantly shared his experience with me.

He had been a referral to our local Youth Fire Intervention Resource and Education (Y-FIRE) program for starting a fire. When I asked how he started the fire he stated that he had stolen a cigarette lighter from one of the local discount stores, and that the lighter was placed in a location that was easy for him to lift. If some type of restrictions were placed on regular cigarette lighters and open flame devices, this probably would have kept him from starting a fire in this instance.

I urge all of the members of this committee to please give your support to this Bill, and to also consider what more can be done to keep these tools out of the hands of those who are too inexperienced to know the calamitous consequences that they could bring to themselves and to others.

I thank other supporters of this Bill who are present today and again thank you Chairman Brungardt, Senator Faust-Goudeau and the members of the Senate committee for considering this Bill.

Sincerely,

Mark Chairs, President
One Step Ahead

12175 SW Valleyview Rd. Andover Kansas 67002

Sn Fed & State
Attachment 15

1-28-10

(16)

January 28, 2010
House Federal and State Affairs Committee
Hearing on Senate Bill 342 – Prohibiting the sale of novelty cigarette lighters
Testimony presented in favor of SB 342
By Nancy Niles Lusk
7700 West 83rd Street
Overland Park, KS 66204
913-648-2616

I support Senate Bill 342 - Prohibiting the Sale of Novelty Cigarette Lighters. How can we teach our children not to play with matches and turn around and have cigarette lighters that are toys? These items are potentially deadly if they come to be in the hands of children. I encourage your committee to ban them.

I learned about toy novelty lighters thru Kansas PTA. They passed a resolution in support of legislation banning them. I wondered if it was really that much of a problem. First I read information online and learned of tragic instances of death, serious burn injuries, and the loss of homes from children playing with lighters. I called up local fire fighter officials and quizzed them and they informed me that the lighters are very common and dangerous.

Neither I nor my husband smoke, so cigarette lighters were not on my radar screen. To find out how prevalent they are, I started checking out filling stations and convenience stores here and there, where ever I happened to be traveling; Topeka, Lawrence, Lenexa, Overland Park, Emporia, and Wichita. It has been startling how frequently I have found them.

Today I will show you some of the lighters I found. When I am finished, I will leave them with you in this box. And based on past experiences in showing them to people, I am going to make a prediction of how you may react upon seeing them. They are so cool. You are going to enjoy them. Some of them are awesome. Everyone who sees them delights in the juxtaposition of a sweet little toy contrasted against fire/danger. I have seen people of all ages delight in them. And that is the problem.

I purchased my first lighters last February. I got the **hot dog** lighter at a BP filling station at 29th along with the **red, green and black fire-breathing dragon lighters**. Driving straight south of the capitol building on Topeka Ave, I found a half dozen at the first station I came to on the right-hand side.

I found two lighters near my home at a convenience store that is a block east of 83rd Street and Metcalf in Overland Park, and it is in Senator Owens's district. One looks like a **motorcycle.** The other looks like a **small hand gun with a laser pointer on top of it**. Pull back the hammer and it lights up. Pull the trigger and it is a laser pointer. My two teenage sons called it "wickedly awesome." I had to hide the thing from them. Two Eagle Scouts, both seniors at the time, and they pestered me for days trying to get me to tell them not just where I had hid it, but where I had purchased it.

On a return trip I made from Topeka thru Lawrence I found a total of ten novelty lighters from about one third of the places I stopped. The **dueling handgun** lighter and a **fire extinguisher** lighter were purchased in Lawrence.

I found a big batch at JB's Convenience Store near 95th and I-35 in Lenexa, KS. They were in a plastic jar on the counter on sale for only $2.99 each, which makes me wonder if these aren't some of the ones that China could no longer sell in Europe, because the European Union passed ban on novelty lighters that look like toys in March, 2008.

- a **clear boxing glove with flashing lights**
- a little **football**
- a little **coffee cup**
- a little **motorcycle helmet**
- a **little black elephant** --when you tip his trunk down a fire shoots up out of his back

I purchased the **deer head** at a filing station off of I-35 at Beto Junction, which is south of Lyndon and north of Burlington. I don't remember exactly where I got the **horse head**, but I believe it was in Emporia. I found a **second motorcycle helmet** at a filling station just south of 95th Street and Nall on the west side of the street in Overland Park in Senator Owens's district again.

Let me tell you about the **golf club.** I found this lighter at a filling station in Topeka. When I tried to light it I almost burned myself, because I didn't realize I was holding it upside down. My two 18 year-old sons and I were showing the lighter to their friend, Isaac Dressman. When lit this lighter was impressive. It shot a hefty blaze out club end, emitting a little hiss sound like a blow torch. "Awesome." When I tried to turn it off I could not, though the flame was reduced. My son, Thomas, tried to turn it off and couldn't. Finally, their friend Isaac, disassembled the lighter with a screwdriver and we were able to turn it completely off.

It is safely broken now, but talk about dangerous. Imagine how a child alone might react in the same situation. Become panicky and drop it and run away?

That experience led me to find out more about the other reason the novelty lighters are dangerous, besides the obvious one of attracting children to play with fire.
Most novelty lighters are cheaply and unsafely made in China. No novelty lighters are manufactured in the U.S. The only disposable lighters made in the U.S.A. are made by the BIC Corporation in Milford, Connecticut, and they have to undergo more than 50 separate quality checks. The Chinese lighters have a history of often failing to meet safety standards.

My friend, Karen Wagner, told me in a phone conversation yesterday that her twelve year old son and husband had attended an annual Boy Scout Camporee in Newton, KS, this just past weekend. At camporees the Scout troops come up with prized items to trade with the other troops. Guess what the big hit was this year--novelty lighters.

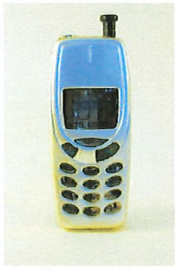
In making your judgment of this bill, please understand the potential danger of toy novelty lighters. There will be no great lost to society if the selling of novelty lighters is banned, because smokers will be able to light their cigarettes with regular lighters. The European Union has already banned them, effective March 2008. Since then, the lighters that couldn't be sold in Europe are apparently being dumped in the U.S. Of the lighters I found, most were sold at independent gas convenience stores, but I did notice several were from British Petroleum stations

Support of this bill is warranted.













Lighters or toys?

Can you tell the difference? Could a child?

For more information about the dangers of novelty lighters, visit:
www.oregon.gov/OSP/SFM

KANSAS
DEPARTMENT OF HEALTH
AND ENVIRONMENT

Mark Parkinson, Governor
Roderick L. Bremby, Secretary

www.kdheks.gov

Written Testimony on Senate Bill 342

Presented to
Senate Federal and State Affairs Committee

By
Dr. Jason Eberhart-Phillips
State Health Officer and Director, Division of Health
Kansas Department of Health and Environment

January 28, 2010

Chairman Brungardt and members of the committee, I am Dr. Jason Eberhart-Phillips, State Health Officer and Director of Health for the Kansas Department of Health and Environment. Thank you for the opportunity to present written testimony in support of SB 342, which proposes to prohibit the sale of novelty cigarette lighters.

Novelty lighters can look like anything from tiny skateboards and cell phones to farm animals and butterflies. Some light up, some make noises, and many do both. The tiny green frog with bulging eyes could be a child's toy, but for the torch-like flame that bursts from the frog's head. When its flame is ignited the frog says "ribbit". They're cute, they're little, but they are not toys and the consequences of playing with them could be deadly.

According to a document released July 2009 by the National Fire Protection Association, fire departments in the United States in 2006 reported that children playing with fire started an estimated 14,500 structure fires causing 130 civilian deaths, 810 civilian injuries and 328 million dollars in property damage. Nearly two-thirds (63%) of the fatal victims of these fires were children 5 years old and younger. Two out of every three child-playing fires and four out of five associated deaths and injuries involve matches or lighters.

In Kansas, from 2002 to 2008, the State Fire Marshal reported 1,407 child-playing fires that resulted in five civilian deaths, 66 civilian injuries, ten firefighter injuries and over $8.3 million in property losses.

Thank you for your consideration of this important public health issue. SB 342 offers the potential to prevent fire-related deaths in your district.

Safe Kids Kansas

Preventing accidental injury.

January 28, 2010

Testimony presented to the Senate Committee on Federal and State Affairs Senate Bill 342

Chairman Brungardt and members of the Committee on Federal and State Affairs, Safe Kids Kansas is pleased to provide testimony in support of SB 342. Safe Kids Kansas is a nonprofit coalition of over 70 statewide organizations and businesses dedicated to preventing accidental injuries to Kansas children ages 0-14. Senate Bill 342, which prohibits the sale or distribution of novelty cigarette lighters in Kansas, would help keep an inherently dangerous product out of the hands of children. These toy-like lighters inadvertently promote youth fire-play, and pose a serious risk to children, their families and neighbors, and personal property.

Playing with fire:

- According to a National Fire Protection Association (NFPA) study, in 2006, an estimated **14,500 structure fires** involving fire-play were reported to U.S. municipal fire departments. These fires resulted in an estimated
  - **130 civilian deaths;**
  - **810 injuries**; and,
  - **$328 million** in direct property damage.
- **50%** of people who start reported fires by playing are **5 years old and younger**
- **63%** of all fatal victims of fires by playing are children **5 years old and younger**

Novelty lighters are fully-functioning cigarette lighters that look like toys and, thus, pose a serious safety risk to children. They come in many shapes appealing to children, such as cartoon characters, food and beverages, animals, cell phones, cars, motorcycles, and household items such as pens and markers. Some feature flashing lights and sound effects. Many novelty lighters are indistinguishable from toys, even by many adults. While we tell children to stay away from matches and lighters, products such as novelty lighters blur the lines for children, sometimes with devastating results.

Nationally recognized fire protection and children's safety groups support legislation to ban novelty lighters, as does the lighter industry. The National Association of Fire Marshals, the Congressional Fire Services Institute, and Lighter Association, Safe Kids USA, and others have public supported novelty lighter bans. Other states, including Maine, Tennessee, North Carolina, Virginia, New Jersey, Arkansas, Louisiana, Nevada, Oregon and Washington, have already instituted laws banning or limiting the sale of novelty and toy-like lighters.

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www.safekids.org www.safekidskansas.org

Sn Fed & State
Attatchment 18
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Thank you for your support of this bill. The end result will be fewer Kansas children injured and killed in fires. Should you need any additional information, please contact our office.

Attachments:
"Yes, this is a lighter" – examples of novelty lighters on the market
"Fire and Burn Safety: A guide for parents of young children" – Safe Kids USA – please reference pages 5-6
Safe Kids Kansas Member Organizations

Safe Kids Kansas, Inc. is a nonprofit Coalition of over 70 statewide organizations and businesses dedicated to preventing accidental injuries to Kansas children ages 0-14. Local coalitions and chapters cover Allen, Anderson, Atchison, Butler, Clay, Coffey, Dickinson, Doniphan, Douglas, Elk, Ellis, Finney, Geary, Harvey, Jackson, Jefferson, Johnson, Labette, Leavenworth, Marion, Marshall, McPherson, Meade, Mitchell, Montgomery, Pottawatomie, Riley, Saline, Sedgwick, Shawnee, Smith, Sumner, and Wilson counties, as well as the city of Emporia and the Metro Kansas City Area (Wyandotte county and several Missouri counties.) Safe Kids Kansas a member of Safe Kids Worldwide, a global network of organizations whose mission is to prevent accidental childhood injury. The lead agency for Safe Kids Kansas is the Kansas Department of Health and Environment.

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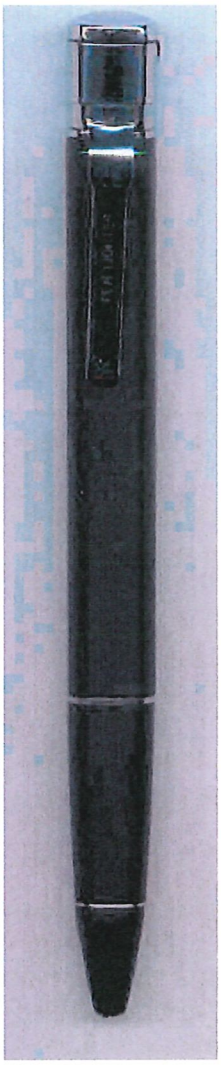
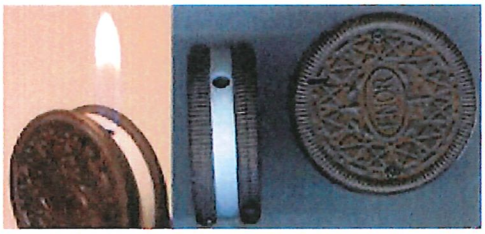
Yes, this is a lighter.

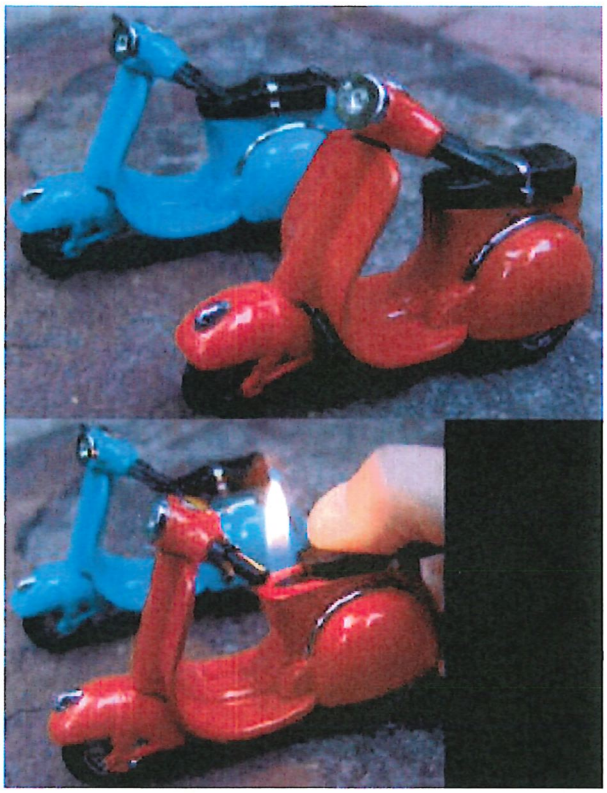
Can you tell which is a lighter and which is just a felt-tip marker?

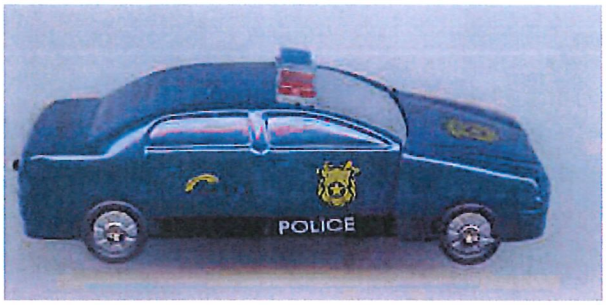
Would a child who is too young to read be able to tell the difference?

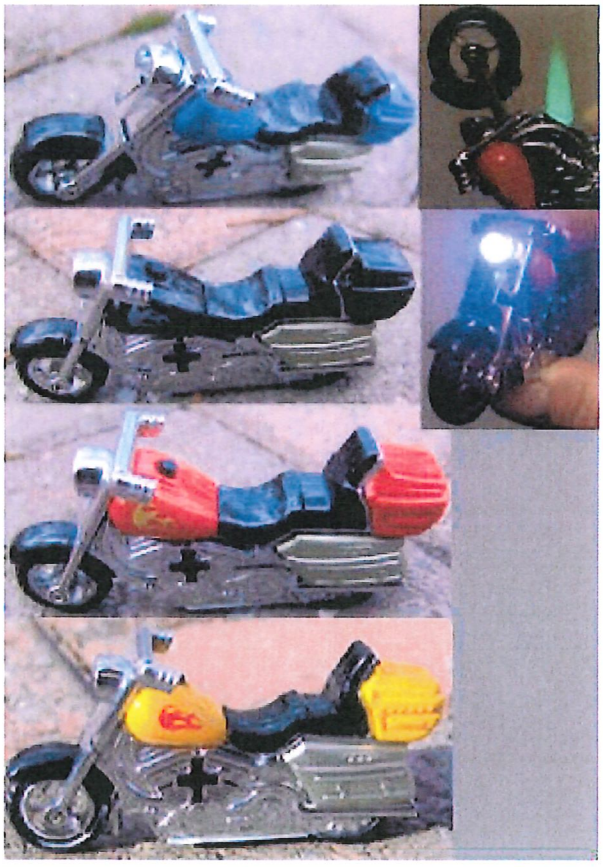




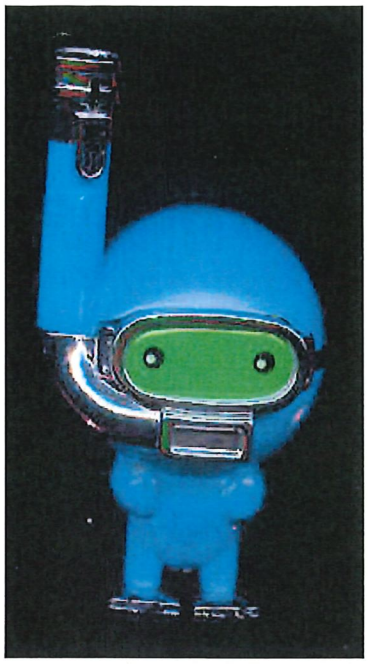
This is a lighter, too.

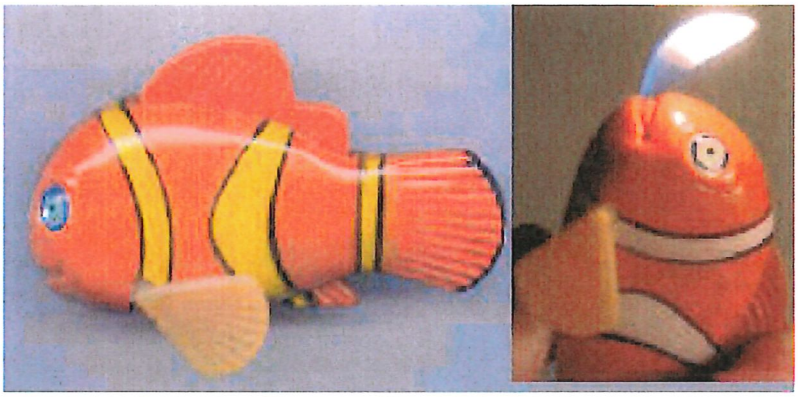


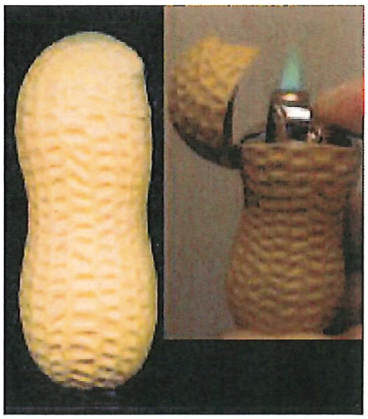


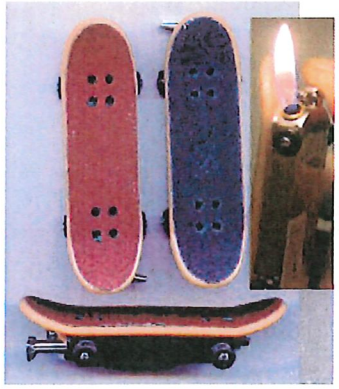


A lighter is not a toy. Does this look like a toy to you?









Fire+Burn Safety

A Guide for Parents of Young Children

Safe Kids USA®

Did You Know?

Children under age 7 are at greater risk of injury from fire or non-fire burns. Many day to day activities in the home present a burn risk. Fire and burn injuries in U.S. children of this age account for almost 200 emergency room visits each day. Young children are exploring their new world and it can take awhile for them to learn which items to avoid. They're also more vulnerable to smoke and flames in a fire and have a hard time escaping by themselves.

This guide will walk you through each room in your home and show you how to protect your children from fires and burns.

One Family's Story

On a night in November of 2005, I put out the fire in the playroom's fireplace and put my two kids, Noah, age 7, and Aviana, age 9, to bed. In the middle of the night, I woke up to the sound of the smoke alarm. I went downstairs and felt the door of the playroom, which was not hot. When I opened the door for the cat, smoke poured out and I knew something was wrong. I mistakenly called 911 first, and then ran upstairs to get my kids. The upstairs windows were painted shut, so we used the stairs. Once outside, we discovered that Noah was missing. By the time firefighters arrived, it was too late to save Noah from the toxic effects of inhaling smoke.

— Noah's mother, Suzanne

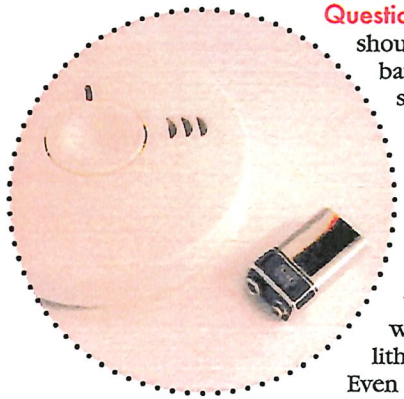
No one should have to endure the loss of a child. Safe Kids USA reminds parents to keep flammable items away from fireplaces and to create and practice an escape plan, which this guide will teach you. Suzanne hopes parents will heed these fire safety measures to help avoid a tragedy in their own families.

All About Smoke Alarms

In a fire, smoke can kill you. In a flaming fire, there is an average of **3 minutes** after a smoke alarm sounds for you and your family to escape.

Question: How many smoke alarms should I have in my home?

Answer: You should have a **smoke alarm on every level** of your home, including the basement. You should also have one outside each sleeping area and in each bedroom.



Question: How often should I change the batteries in my smoke alarm?

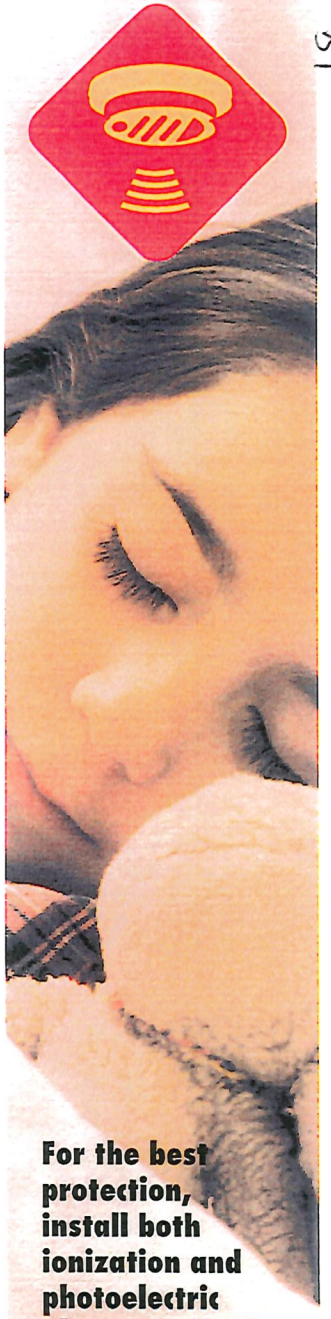
Answer: You should **change the batteries at least once a year**, unless you have alarms with 10-year lithium batteries. Even if your alarms are connected to the wiring in your home, change the batteries in case of a power failure.

Question: How often should I test the batteries in my smoke alarms?

Answer: You should **test the batteries once a month** to make sure the alarms are working correctly.

Question: My children sleep very deeply. Will they wake up to the smoke alarm?

Answer: Sometimes children will sleep through a smoke alarm. Test your alarms at night to **see if your child will wake up** and respond to the alarm. If your child does not wake up to the alarm, try an alarm where you can program your voice to alert him or her.



For the best protection, install both ionization and photoelectric alarms (or dual sensor alarms).

7-81

Consider This:

Establish a "Kid Free Zone" of at least 3 feet around any type of heating equipment or candles. Young children are naturally curious and drawn toward a fire.

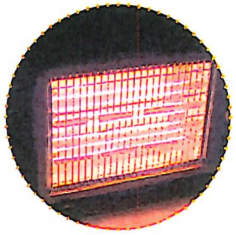
Candles

Candles can add a nice touch to a room, but keep them at least 12 inches away from anything that can burn. Remember to blow them out when you leave the room.

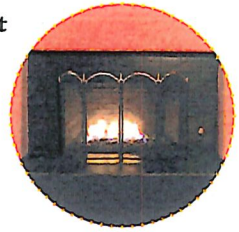
Living Room

Your living room or den is where your family spends most of its time. Did you know there are many fire and burn risks here too? One important thing to think about is how your living room and the rest of your house are heated. Portable space heaters, fireplaces, and wood stoves require extra precautions. Here are ways to use heating equipment safely:

- Keep anything that can burn (furniture, curtains, paper, etc.) **at least 3 feet away** from any heating equipment.
- Always **turn off portable space heaters** before leaving the room or going to bed.
- Always **use the right type of kerosene** in a kerosene heater; never use gasoline or other fuels. Refuel heaters in a well ventilated area and only if the heater is fully cooled.



- Keep a **screen in front of the fireplace.** If it has a glass screen, it can take a long time to cool down and can burn a young child.



- **Use only dry, seasoned hard wood** in a fireplace or wood stove to avoid the build-up of creosote in the chimney (an oily deposit that can catch fire).
- **Vent all fuel-burning equipment** to the outside to prevent carbon monoxide poisoning.
- Have the **chimneys of wood stoves and fireplaces cleaned** and inspected once a year.
- Have a **professional install a wood stove.**

Kitchen

Prevent Cooking Fires

- Keep anything that can catch fire (towels, potholders, etc.) **away from your stovetop**.
- **Never leave the kitchen while cooking.**
- Make the **stove area a "Kid-Free Zone".** Teach your child to stay out of this area. Mark it on the floor with bright tape. Three feet is a good distance.

- If your clothes catch on fire, **"stop, drop, and roll."**

Prevent Burns

- **Do not hold children while cooking** or carrying hot foods or drinks.
- Cook with **pots and pans on back burners** and turn handles away from the front of the stove.
- Place **hot foods and liquids in the center** of the table or counter.
- Keep **appliance cords (i.e. coffee pot, deep fryer) out of a child's reach.**
- **Do not allow young children to use the microwave.**

Why are young children at greater risk for burns in the kitchen?

- Their skin is thinner than adults so hot liquids or pans can burn them more quickly.
- Young children are driven to explore their world and do not understand they need to stay away from hot items.
- One- and two-year olds can often reach the counter or stove but cannot see if something hot is there.

In 2006, children playing with fire started 14,500 building fires in the U.S.

Prevent Children from Starting Fires

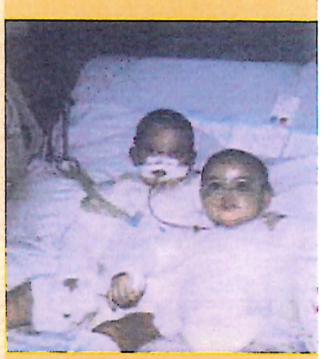
Did you know that most children are fascinated by fire at an early age? Young children are curious about all aspects of their environment, including fire. Many also like to imitate adults making it important for you to be a good role model. They may see you light a match or use a lighter and think it's OK for them to do the same. Even if you tell them not to touch matches and lighters, they may not listen.

The most common room in the home for children to start fires is the bedroom. Many times, children who start fires know that it's wrong so they don't tell anyone if a fire spreads or they hide in a closet. Then it can be too late.

That's why it's important to take these steps:

- **Lock up matches and lighters** out of children's reach. Children have been known to climb up to reach them in high locations.
- **Teach children to not touch matches or lighters** and **tell an adult** if they find them.
- **Be a good role model** by using fire safely.
- If you suspect your child is **setting fires on purpose, get help**. Your fire department, school, or counseling agency can connect you with experts.

A Grandmother's Story



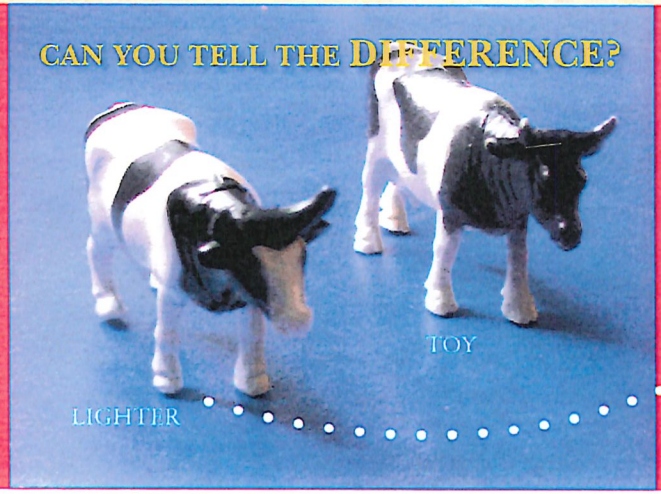
My grandchildren Nathan, age 4, and Aaliyah, age 1½, were playing in a bedroom when Nathan found a canteen-shaped novelty lighter I didn't know about. He tested it and was surprised when the tall blue flame caught some papers on fire. When his fingers burned, he dropped the papers on the floor. As flames and smoke filled the room, he yelled for help at the door, which had gotten locked from inside. His grandfather couldn't hear him. My daughter, their mother, had just returned home when I called. When she went to check on the kids, she found Aaliyah unconscious and couldn't see Nathan in the smoke. She wrapped Aaliyah in a towel and as she ran outside, yelled into the phone that the house was on fire. She went back to the window for Nathan. Firefighters arrived just in time to get him out. (I had called 911.)

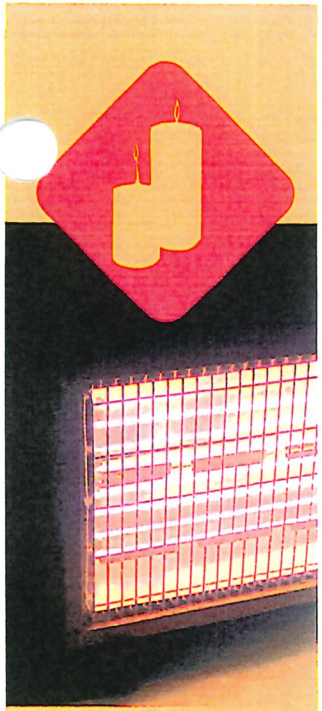
Nathan and Aaliyah suffered severe burns and were flown to Arkansas Children's Hospital. They underwent many surgeries and skin grafts during their five-month hospital stay as well as over the last eight years. Please lock up ALL matches and lighters to prevent any child from experiencing this permanent life-altering tragedy.

— Nathan and Aaliyah's grandmother

Some *lighters* look like *toys*!

Many children are attracted to these lighters because they look like toys. Children have been injured and killed by playing with these types of lighters. Some localities and states have banned stores from selling these products.





Bedroom

You may think that the bedroom is much safer than the kitchen. BUT, here are how many home fires start...

. . . a space heater is left on overnight

TIP: Always **turn off space heaters** when you go to sleep or leave the room.

Keep a **space heater at least 3 feet away** from anything that can burn — curtains, furniture, clothing, etc.

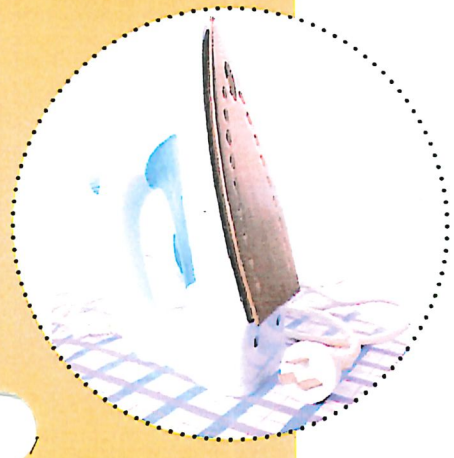
. . . a candle is not used correctly.

TIP: Keep **candles at least 12 inches away** from anything that can burn.

Always **blow out candles when you leave** the room or go to sleep.

. . . a child starts a fire in the bedroom (the most common location inside homes).

TIP: Keep **matches and lighters locked up** where children cannot reach them.



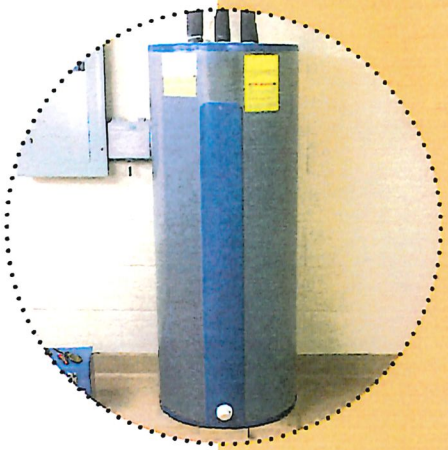
. . . a clothing iron is left on or is left cooling where children can reach it.

TIP: **Turn off the iron** as soon as you are finished. **Put it out of your child's reach** until it cools down.

Bathroom

A young child's skin is much thinner than an adult's. This makes it easier for children's skin to get burned at lower temperatures. A comfortable bath temperature for you will be too hot for a child. Here are ways to prevent burns during bath time:

- Set your **water heater to 120 degrees**. If you rent, ask your landlord to adjust it. You can test it by running hot tap water over a cooking thermometer.
- When starting a bath, **turn the cold water on first**, then the hot water.
- **Test the bathwater** with your wrist or elbow before placing your child in the tub.
- Seat the child **facing away from the faucet** so he or she won't try to turn it on.
- Consider putting **anti-scald devices on faucets.** These devices turn off the water if the temperature is too hot.
- Remember – **Never leave a child alone in the bathtub** – he or she can burn or drown within seconds!
- **Unplug any appliances** when you are not using them.



Keep curling irons away from small children!

18-10

If you cannot escape the room:

- Stuff the cracks around the door and air vents with towels or clothing.
- If possible, call 911 and tell them where you are located.
- Open the window and signal for help with a sheet or flashlight.

Home Fire Escape Plan

It is important to make and practice an escape plan for your family in case of a fire. Remember, smoke can kill you, and you may have less than 3 minutes to escape.

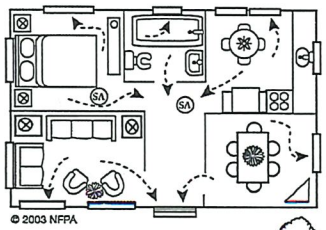
Escape Route Checklist:

- ❑ Mark **two ways out of every room** if possible. Show all windows and doors.
- ❑ Have a **designated person to help young children** and others who might have difficulty escaping.
- ❑ Teach children to "**get low and go**" as they leave the home.

- ❑ Choose a **specific place to meet** outside the home. Once you're out, stay out.
- ❑ **Don't call 911 until after you're out** of the home.

- ❑ **Practice your escape plan** at least twice a year. Use a smoke alarm when you practice. Also, practice it at night to see if your child awakes to the smoke alarm. Children sleep more deeply and may not wake up.

Use the grid on the next page to draw a picture of your home and mark the escape routes as shown in the sample here.



Our Fire Escape Plan

Draw your home on the grid and mark two ways out of every room.

11-81

Fire and Burn Safety Essentials!

- Install **smoke alarms on every level** of your home, outside of each sleeping area, and in each bedroom.
- **Replace smoke alarm batteries** once a year even if alarms are hardwired. Ten-year lithium batteries do not need to be replaced.
- Make and **practice a fire escape plan** with at least two ways out of every room. Have a plan to help young children escape the home.
- **Store matches and lighters in locked cabinets.** Teach your child to never touch them.
- Make the **stove area a "Kid-Free Zone"** Three feet is a good distance.
- **Never leave the kitchen unattended** while cooking and never leave a child alone while cooking.
- Keep **hot foods and liquids away** from children.
- Place **space heaters at least three feet from anything that can catch fire** (curtains, furniture, papers). Always turn off space heaters when leaving the room or going to bed.
- Set your **water heater to 120 degrees**.
- **Never leave young children alone in the bathtub** — a child can burn or drown within seconds.

Tear off this cover and place it on your refrigerator as a reminder.

Proud Program Sponsor
United States Fire Administration

FEMA

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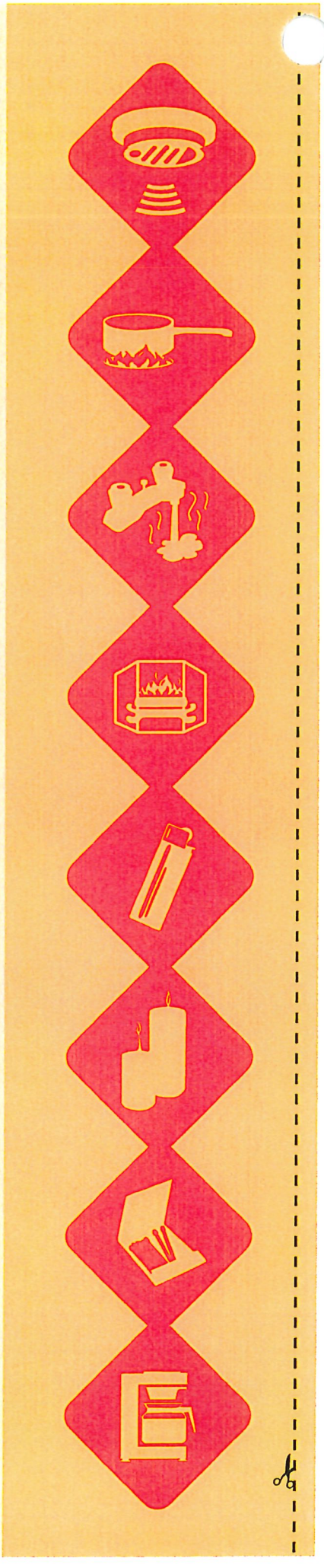

18-12

Safe Kids
Kansas

Safe Kids Kansas
Member Organizations

AAA Kansas
American Academy of Pediatrics – KS
Board of Emergency Medical Services
Brain Injury Association of Kansas
Children's Mercy Hospital
Child Care Providers Together of Kansas
Cusick Jost Consulting, LLC
Dillon Stores
Fire and Burn Safety Alliance of S Central Kansas
Fire Education Association of Kansas
Fire Marshal's Association of Kansas
Head Start State Collaboration Office/SRS
Huggable Images
HCC Fire Service Training Program
Kansas Academy of Family Practice Physicians
Kansas Action for Children
Kansas Association for Counties
Kansas Association of Local Health Departments
Kansas Association of Osteopathic Medicine
Kansas Association of School Boards
Kansas Chapter International Association of Arson Investigators
Kansas Children's Cabinet & Trust Fund
Kansas Chiropractic Association
Kansas Cooperative Extension 4-H
Kansas Dental Association
Kansas Department Health & Environment
Kansas Department of Human Resources
Kansas Department of Transportation
Kansas Department of Wildlife and Parks
Kansas District of Kiwanis International
Kansas EMS Association
Kansas Emergency Nurses Association
Kansas Farm Bureau
Kansas Healthy Start Home Visitors
Kansas Highway Patrol
Kansas Hospital Association
Kansas Insurance Department
Kansas MADD
Kansas Medical Society
Kansas Motor Carriers Association
Kansas Operation Lifesaver
Kansas Parent Teachers Association
Kansas Poison Control Center
Kansas Public Health Association
Kansas Recreation & Park Association
Kansas Safe Routes to School Program
Kansas SADD
Kansas Safety Belt Education Office
Kansas School Nurses Organization
Kansas State Association of Fire Chiefs
Kansas State Board of Education
Kansas State Child Death Review Board
Kansas State Fire Marshal's Office
Kansas State Firefighters Association
Kansas State Nurses Association
Kansas Trial Lawyers Association
Kansas Trauma Program
KIDS AND CARS
KNEA
KUMC Burn Center
KUMC Emergency Services
KUMC Trauma Program
NHTSA Regional Office
Office of the Governor
Safety & Health Council Western MO & KS
SIDS Network of Kansas
State Capitol Area Fire Fighters Association
State Farm Insurance Companies
Stormont-Vail Regional Medical Center
United School Administrators of Kansas
Via Christi – St. Francis Burn Center
Via Christi – Trauma Center
Wesley Medical Center

Membership also includes Local Coalitions and Chapters located in Allen, Anderson, Atchison, Clay, Dickinson, Doniphan, Douglas, Elk, Ellis, Ford, Franklin, Geary, Jackson, Jefferson, Johnson, Leavenworth, Marion, Meade, Mitchell, Montgomery, Osage, Pottawatomie, Rice, Riley, Saline, Shawnee, Smith, Wabaunsee, Wilson and Woodson Counties, as well as the cities of Chanute, Emporia, Leavenworth, Pittsburg, Wichita Area and Metro Kansas City.

Safe Kids is a member of Safe Kids Worldwide.

12-09

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18-13

19

Fire Marshals Association of Kansas

January 26, 2010

Written testimony before the Committee on Federal and State Affairs in support of Senate Bill 342, an act prohibiting the sale of novelty cigarette lighters.

Honorable Chairman Pete Brungardt and members of the Committee,

Thank you for this opportunity to testify. The Fire Marshals Association of Kansas strongly supports Senate Bill 342. We also appreciate your efforts as elected officials to promote legislation that will make Kansas a safer place to live, learn and work. We believe SB 342 will protect Kansas families by prohibiting the sale of novelty cigarette lighters.

According to a National Fire Protection Association, an estimated 14,500 child-playing structure fires were reported to U.S. municipal fire departments in 2006. These fires resulted in an estimated

- 130 civilian deaths
- 810 injuries
- $328 million in direct property damage
- 50% of reported fires by playing were started by children - 5 years old and younger
- 63% of all deaths of fires by playing were children - 5 years old and younger
- Most child-playing home fires began with lighters or matches

As the voice of Kansas' fire marshals, it is our responsibility to reduce fire and burn deaths, injuries and incidents. We can achieve these goals by protecting Kansas families with education and information, enacting laws that make Kansas families safer and supporting and enacting SB 342

Please feel free to contact us to discuss how we can make Kansas a safer place to live.

Respectfully Submitted,

Brad E Henson

Brad Henson, President
(913) 971-6333

Sn Fed & State
Attachment 19
1-28-10

FEAK
Fire Education Association of Kansas

January 26, 2010

Written testimony before the Committee on Federal and State Affairs in support of Senate Bill 342, an act prohibiting the sale of novelty cigarette lighters.

Honorable Chair and members of the Committee,

Thank you for this opportunity to testify. The Fire Education Association of Kansas expresses its sincere support of Senate Bill 342. We also applaud your efforts as elected officials to promote legislation that will make Kansas a safer place to live, learn and work. We believe SB 342 will protect Kansas families by prohibiting the sale of novelty cigarette lighters.

If you have never seen a novelty lighter, simply stop by the nearest convenience store or visit ebay.com where you can see nearly 500 such items. Many novelty lighters are attractive to children and look like toys. But, there is no "novelty" in novelty lighters.

According to a National Fire Protection Association, an estimated **14,500 child-playing structure fires** were reported to U.S. municipal fire departments in 2006. These fires resulted in an estimated

- 130 civilian deaths
- 810 injuries
- $328 million in direct property damage
- **50%** of reported fires by playing were started by children - **5 years old and younger**
- **63%** of all deaths of fires by playing were children - **5 years old and younger**
- **Most child-playing home fires began with lighters or matches**

As the voice of Kansas' fire and life safety educators, it is our responsibility to reduce fire and burn deaths, injuries and incidents. We can achieve these goals by:

- Protecting Kansas families with education and information
- Enacting laws that make Kansas families safer
- Supporting and enacting SB 342

Please feel free to contact us to discuss how we can make Kansas a safer place to live.

Respectfully Submitted,

Mike Hall

Mike Hall, president
(913) 971-6333

Sn Fed & State
Attachment 20
1-28-10

Fire and Burn Safety Alliance of South Central Kansas, Inc.

PO Box 275
Kechi, KS 67067
Email: faballiance@cox.net
Phone: 316-655-2658

21

Written testimony before the Committee on Federal and State Affairs in support of Senate Bill 342, an act prohibiting the sale of novelty cigarette lighters.

Honorable Chairman Pete Brungardt and members of the Committee.

The Fire and Burn Safety Alliance of South Central Kansas, Inc. joins other fire organizations in Kansas in their support to ban the sale and distribution of novelty and toylike lighters.

Children are attracted to novelty lighters because they look like toys such as animals, miniature cars, mobile phones, and cameras. It is nearly impossible for a child, and oftentimes an adult, to distinguish between what is a toy and what is a lighter. Unfortunately, this contributes to incidents of deaths, injuries, and property loss in the State of Kansas.

Our organization's mission is "to enhance the quality of life by decreasing the incidence, severity and consequences of fires and burns among residents of South Central Kansas, with special emphasis on high-risk populations, through prevention, intervention, and education". One of our most successful programs is our Y-FIRE Academy for youth who have been experimenting with fire, most often with lighters, some of which were novelty lighters. This six hour intense course is designed to educate these youth and their caregivers on the dangers and consequences of their behavior.

Firefighters throughout the State would be your best enforcement monitors. When they visit businesses on a daily basis and find a business in violation, fire departments would have the authority to issue citations.

On behalf of our members, we encourage your vigilance in passing SB342 and appreciate your efforts in assisting us in our efforts to keep our citizens safe from fire and burns.

Respectfully submitted,

Patti Peterson

Patti Peterson, Chair
Fire and Burn Safety Alliance of South Central Kansas, Inc.
Lieutenant/Education Officer – Sedgwick County Fire Department
7750 N. Wild West Dr.
Park City, Kansas 67147-7929
(316) 660-3473

Sn Fed & State
Attachment 21
1-28-10

Dear Senator Brungardt 1-27-2010

My name is Edward F. Bricknell and for the past 35 years, as past Fire Marshal for the Wichita Fire Department (retired), I have been witness to the devastating results of children playing with lighters.

In 2007, 2008 and 2009, juvenile set fires in Wichita caused $524,580, $258,750 and $321,590 respectively in property damage. Sadly, since 2001, 3 children have been burned to death as the result of playing with lighters.

Ordinary looking lighters are attractive enough to entice a child into playing with them. Now we have the added attraction of lighters that look like toys. They are small, colorful, and have fun shapes such as a puppy, a turtle, a car or even a fire truck and would look at home in a toy box. But they are not toys, they are cigarette lighters and in the hands of a child, deadly.

I respectfully ask that a proactive stand against the sale and distribution of lighters that look like toys be taken. Why wait for a child to die a miserable fire death caused by a device they thought was a toy and banish parents to a long life of agony as they mourn the death of a child. A death that could have been prevented.

I strongly support SB 342 (Novelty Lighters) and respectfully urge you and the Senate Federal and State Affairs Committee to help keep lighters that look like toys out of the hands of children.

Respectfully submitted

Edward F. Bricknell
Fire Marshal, Retired

Sn Fed & State
Attachment 22
1-28-10

KSNA
KANSAS STATE NURSES ASSOCIATION
The Voice & Vision of Nursing in Kansas

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Topeka, Kansas 66612-1602
(785) 233-8638 • Fax (785) 233-5222
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ksna@ksna.net

Caring Hearts, Healing Hands
Decade of the Nurse in Kansas
2005 2015

President Patricia J. Plank, MSN, RN

Testimony in Support of Senate Bill 342

Presented to the Senate Federal and State Affairs Committee

by Craig Gunther, RN

January 28, 2010

Senator Brungardt and members of the committee:

On behalf of the Kansas State Nurses Association, I write in strong support of SB 342. We join the chorus of groups such as the National Association of State Fire Marshals and even the Lighter Association in advocating for the prevention of adverse consequences these novelty lighters pose to the health and well being of individuals and families. A significant reduction in deaths, injury and property damage followed the Consumer Product Safety Commission's adoption of safety standards in 1994 that resulted in many lighters being manufactured as child resistant. We urge the Kansas Legislature to take action that will protect the public from the dangers of novelty lighters.

Children have a difficult time discerning novelty lighters as such because many of them are almost identical to popular toys. There are lighters that resemble cats, dogs, pigs, cell phones, guns and golf clubs to name a few examples. Ironically, there have even been lighters manufactured that resemble fire extinguishers and fire hydrants. I have observed reports of grandparents, aunts and uncles purchasing these lighters as gifts not knowing that they were flame emitting devices. Children aren't likely to explore these devices only in the home while unsupervised. Recently, it was reported that the young daughter of a Wisconsin fire marshal was surprised to learn what looked like a tape measurer emitted flames when she attempted to use it while visiting a hardware store with her father. Luckily, she wasn't hurt and the store stopped selling them thereafter. Other types of lighters that resemble toys are often within close reach to children in convenience stores, as well.

Not only are these lighters dangerous because of their deceptive appearance, but also by how haphazardly they are manufactured. The consumer Product Safety Commission has recalled thousands of them since 1996, due to their danger to public safety.

In 2006, there were 14,500 structure fires in the United States that were associated with fire play, according to the National Association of State Fire Marshals. Within this context, there were 130 deaths that year, 810 civilian injuries, and approximately $328 million dollars in annual property damage is recorded from these fires. The median age of a child who starts a play fire is five years, and the median age of children who die as a result of these fires is four. Around 42% of fires started by children are started in their bedroom, where they commonly play with toys and are less likely to be supervised.

In March of 2008, Governor John Baldacci of Maine was the first governor to sign a bill prohibiting the sale of novelty cigarette lighters, and by August that year seven other states followed. Please help add Kansas to the growing list of states that prohibit the sale of novelty lighters. This will ultimately save lives, prevent trauma and reduce property destruction while helping us send a strong message to our youth that is not permissible to play with fire.

Sincerely,

Craig Gunther, RN

Kansas State Nurses Association

Sn Fed & State
Attachment 23

1-28-10

CITY OF
WICHITA
Fire Department

January 27, 2010

State Capitol
Attn: Senator Pete Brungardt
Room 522-S
Topeka, KS 66612

Dear Senator Brungardt, Chair and Members of the Senate Federal and State Affairs Committee:

The Wichita Fire Department strongly supports Senate Bill 342, an act concerning cigarette lighters, by prohibiting the sale of novelty cigarette lighters.

Ordinary looking lighters are attractive enough to entice a child into playing with them. The added attraction of lighters which look like toys will only add to this potentially deadly combination. Wichita experienced 25 juvenile set fires in 2008, with a total dollar loss of $258,750.00. In 2009, 20 additional juvenile set fires caused a total dollar loss of $321,590.00.

The Wichita Fire Department strongly urges the Senate Federal and State Affairs Committee to pass Senate Bill 342, to keep lighters that look like toys our of the hands of children.

Sincerely,

Ronald D. Blackwell
Fire Chief

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1st Responder to: Prevention, Protection, Preservation
www.wichita.gov

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Attachment 24

1-28-10

(25)

January 28, 2010
House Federal and State Affairs Committee
Hearing on Senate Bill 342 – Prohibiting the sale of novelty cigarette lighters
Testimony presented by Kansas PTA in favor of SB 342
Debbie Lawson, Kansas PTA President

Kansas PTA and our constituent organizations support legislative action banning or restricting the sale of novelty lighters, particularly to minors.
Youth fire setting has been identified as a fast growing fire threat in the United States. Novelty lighters have features including visual effects, flashing lights, musical sounds and toy-like designs which are attractive to children. The functions of lighters can be achieved without these features. Many public safety agencies that are experts in the field of fire safety support the prohibition of the sale and distribution of novelty lighters, including the National Fire Protection Agency, National Volunteer Fire Council, and the National Association of State Fire Marshalls.
Kansas PTA has a history of concern for the health and safety of children. To that end, we advocate adequate laws for the care and protection of children and youth, and we believe this legislation, Senate Bill 342, is in the best interest of the children of Kansas.

Research done by Kansas PTA member volunteers have found there is another dimension which makes the novelty lighters dangerous, besides just being dangerous in and of themselves. No novelty lighters are made in the U.S., and the vast majority are cheaply and unsafely manufactured in China. The European Union has banned them.

Here are the details:

- According to the Chinese Academy of International Trade and Economic Cooperation, the city of Wenzhou in Eastern China produces 70% of the world's metal cigarette lighters.
- Because they often fail to meet safety standards, lighters made in China have had a history of rulings against them in Europe and the U.S., and Chinese lighters have not always met the standards of the American Society for Testing and Materials Safety Specification for Lighters.
- In 2000 China exported 3.39 billion cigarette lighters to Europe, and 346 million to the United States and Canada. At that time the amount sold in Europe was over nine times the amount imported to the U.S. and Canada.
- The European Union banned the sale of non-child resistant and novelty lighters to consumers, with enforcement starting March 11, 2008. So where has China been looking to make up the lost market in Europe?
- The BIC Corporation in Milford, Connecticut is **the only remaining manufacturer of disposable lighters in the U.S.** The modern manufacturing process at their plant requires every BIC lighter to undergo more that 50 separate quality checks.
- The American manufacturer of BIC lighters **makes no novelty lighters**, and all of their lighters pass the European Union safety standards by 100%. BIC president Rick McEttrick upholds the BIC commitment to safety so that they can continue to provide consumers with `Made In The U.S.A.' quality and value.
- **If we ban novelty lighters, we will not be banning any American made lighters. A ban against novelty lighters will be banning unsafe imported cigarette lighters, most likely made in China.**

Sn Fed & State
Attachment 25

1-28-10