

Testimony on House Bill 2777
Kansas Senate Public Health & Welfare Committee
Mark Engholm, State Fire Marshal
March 5, 2024

The Office of the State Fire Marshal is a criminal justice agency¹ of the State of Kansas responsible for “safeguarding life and property from fire, explosion, and hazardous materials.”² The State Fire Marshal is authorized to appoint Deputy State Fire Marshals³ as necessary to carry out the responsibilities of the office. Deputies have the authority during all reasonable hours of operation to enter buildings and premises subject to the Fire Prevention and Safety Act and to file criminal complaints for any violations found during examinations, inspections, and investigations.⁴ At the direction of the State Fire Marshal, deputies are authorized to make arrests, carry firearms, and conduct searches and seizures while investigating any fire or explosion.⁵

In 2023, our office conducted more than 12,000 fire safety inspections, 2,792 boiler inspections, and 391 investigations of fires and explosions (including 37 fatalities). The Office of the State Fire Marshal employs 40 Deputy State Fire Marshals located across Kansas. 24 of these deputies are assigned to conduct fire safety inspections, 5 deputies are assigned to conduct boiler safety inspections, and 11 deputies are assigned to assist local agencies with fire and explosive investigations.

Around 2005, law enforcement agencies began to issue body worn cameras (BWCs) to their officers. BWCs are used to document evidence, prevent and resolve complaints, enhance training, provide transparency, and increase officer accountability. According to the National Institute of Justice, by 2022, half of law enforcement agencies in the United States were regularly using BWCs. Eight states, including Colorado, have adopted state laws mandating BWC use by all law enforcement officers and similar legislation has been proposed in 16 other states.

The State Fire Marshal’s Office began purchasing and issuing BWCs to our deputies in 2020. Since 2021, agency policy has required the use of BWCs during all contacts with the public, including investigations and inspections. The Office has taken steps to ensure that individual privacy has been maintained during inspections (e.g. having a staff member proceed before our inspector to ensure

¹ K.S.A. 22-4701 Definitions;

² K.S.A. 31-133 Fire marshal; power and duties; rules and regulations

³ K.S.A. 75-3137 Fire marshal; deputies and assistants

⁴ K.S.A. 31-139 Same; right of entry to determine compliance with law and regulations; complaint; order to cease and desist.

⁵ K.S.A. 31-157 Fire marshal deputies and investigatory personnel; law enforcement powers

rooms are not occupied before they are inspected) and the video collected is handled and stored by our agency as a “criminal investigation record” under Kansas statute.⁶

HB 2777, as written, would prohibit the State Fire Marshal or their representatives from wearing or operating a body camera or other audio or video recording device during the inspection of a patient care facility. While our office does not object to HB 2777, I want to make sure that legislators clearly understand that, if the bill is passed as written, they would cede away the ability of the state to defend itself against inaccurate, and sometimes malicious, allegations of improper conduct or damage to private property by state employees. While complaints are not common when you look at the total number of inspections our staff completes each year, we receive an average of 3 or 4 of these allegations per month. In the 3 ½ months that I have held this position, the BWCs have exonerated our staff of all allegations that have been made.

If this bill moves forward, we request that the committee consider the following amendments to the bill:

- Amending the bill to permit audio only recording of the inspections so that the conversations between our inspectors and facility staff are memorialized.
- Amending the bill to add language which would clearly state that this bill would not prohibit the collection of evidentiary images of any violations found by a representative of the State Fire Marshal during an inspection or investigation. Our office routinely collects images of violations found to document them in the inspection file to clearly show the conditions found during the inspection and for possible use in criminal prosecution, if the facility fails to work with our office to become compliant.

Thank you for the opportunity to provide testimony to this committee. I enjoy speaking about the important work our office and first responders across Kansas perform every day and invite members of the committee to schedule a meeting with me if they have further questions about our office or the Kansas fire service.

⁶ K.S.A. 45-254 Law enforcement recordings using body camera or vehicle camera; criminal investigation records; disclosure