

Testimony Regarding HB 2026

House Committee on Commerce, Labor and Economic Development

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February 12, 2019

I want to thank the committee for the opportunity to appear here today and present supportive and informational testimony on House Bill 2026. HB 2026 is a bill brought forward by members of the Kansas fire sprinkler industry. It would give the Office of the State Fire Marshal the responsibility of overseeing and regulating the installation of commercial and multi-family residential sprinkler systems in the state. Our office is always in favor of the use of fire sprinkler systems in all commercial and residential settings. Fire sprinklers save lives of the occupants and responding emergency personnel plus reduce the amount of property loss.

If passed, our office would have to work quickly to hire staff and develop the rules and regulations for this new program by July 1, 2020. Since the program is fee based, the legislature would have to allocate additional spending authority of State General Funds to allow our office to hire the necessary staff July 1, 2019, for the program to be ready to start by July 1, 2020. It would be our office's intent to seek advice and comment from the sprinkler industry, state fire service, city code administrators, and the local plumbing groups in preparing the rules and regulations.

Our office would first have to hire an individual with fire sprinkler design and installation experience to administer the program and begin the process of writing the new rules and regulations. We do not believe that the current fee structure in the bill will be sufficient to cover our costs for the program. Our office has contacted members of the sprinkler industry to get an idea on the number of companies and employees in Kansas. We were told that there are about 30 companies with a possible total of about 300 employees. Using these numbers, we estimate that the fees will generate approximately \$40,000 the first year. Salary and benefits for the first position are estimated to be approximately \$62,000, with one-time start-up costs of \$8,000- 10,000. An administrative assistant would have to be assigned at least part-time to the program with a cost of approximately \$25,000. For the program to support itself, the fee structure would have to be more than doubled. Our office would ask that the maximum fees allowable be tripled for the start of the program, this would allow our office to annually charge the appropriate amount of fees to administer the program. The number of companies and individuals in the sprinkler industry will most likely fluctuate over time, and our office has no idea of the number of out of state companies that may decide to do business in Kansas. As the program begins and is in place for a year or two, it will allow our office to more accurately determine the cost of the program and then charge the appropriate amount to fund it each year.

Our office would also ask the committee to consider and address how this new law will affect local jurisdictions that currently have their own sprinkler regulations. Will local jurisdictions be allowed to be more restrictive than the state statute or be held to the state standards? There will be a possibility that sprinkler companies and individual employees of those companies might be subject to both state and local regulations and licensing costs.

The following is a list of concerns our office found in the individual sections of the bill that the committee and the revisor's office will want to review and consider making changes to:

Broadly: every "must" should be "shall." (There are only 4 of them.)

Sec.2 (h) could overlap with the definition of commercial cooking equipment suppression system, which is covered by the statute and regulation for extinguishers (K.S.A 31-133a(d)). It should either have those excluded from the definition explicitly, or the term "sprinkler" should be defined in a new subsection in a way that excludes them.

Sec.2 (s) is probably unlawful delegation to allow ICC to define what is a 1- or 2-family dwelling. It should use the same words from KSA 31-133(a)(3) or the actual definition that it is referring to in the current ICC publication.

Sec.3 (a) is ambiguous. Being "at minimum, consistent with" plus undated codes sets our office up to be challenged when we adopt later codes. There are two sources of conflict: what does "at minimum" mean? And are the newer codes adopted later "consistent with" the earlier codes? This section should more closely mirror K.S.A. 31-133, possibly with each subsection being a brief summary of the NFPA codes currently referenced.

Sec.3 (b) is also ambiguous. Who or what does "stringent" refer to? One code could require, for example, 3 cables of thinner diameter whereas another code could require two cables of a greater diameter. Our office and the industry would need this language amended to better reflect legislative intent. This subsection also *mandates* adoption of the more "stringent" code, whereas Sec.3 (a) *permits* our office to adopt codes. This subsection needs to be re-drafted to address those problems.

Sec.9 (b) requires OSFM to do the testing for all license categories and does not allow for our office to accept test results administered by other entities.

Sec.9 (c)(2) is a lifetime bar on licensure for any person felony conviction. This conflicts with KSA 74-120 (adopted last year).

Sec.9 (e) should have the final sentence removed. That can be exploited the way it is currently written.

Sec.9 (i) effective date is different than the rest of the bill. Our office would like to create a window where we can process applications prior to the effective date of the rest of the bill and suggest that Sec.10 (a) should also be changed to January 1, 2020.

Sec.10 (b)(1)(E) "good moral character" is ambiguous and subject to constitutional challenge. If the criminal history requirements in Sec.9 aren't sufficient, this subsection should be amended to say exactly what the applicant must demonstrate.

Sec.11 (c)(2) requires our office to write and administer the licensing exams instead of tests written or administered by a third party.

Sec.16 (b) should be clarified as to whether the maximum *total* fine for the manager is \$500 or if that is the maximum fine *for each offense*.