



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 26, 1976

ATTORNEY GENERAL OPINION NO. 76-74

Mr. Ellsworth E. Crowley
Executive Secretary
State Board of Engineering Examiners
12th Floor - 535 Kansas Avenue
Topeka, Kansas 66603

Re: Engineers--Professional Engineers' License Act--
Use of Derivatives and Modifications of the Word
"Engineer" by Association of Engineering Geologists

Synopsis: The Association of Engineering Geologists, as well
as its members, may use the word "engineering" in
their title and logo without violating the Kansas
Professional Engineers' License Act and the amend-
ments thereto under proposed House Bill No. 3025.

* * *

Dear Mr. Crowley:

If enacted, Section 1 of proposed House Bill No. 3025 will amend
K.S.A. 26a-101 to read as follows:

"In order to safeguard life, health, and
property, and to promote the public welfare,
the practice of engineering in this state is
hereby declared to be subject to regulations
in the public interest. It shall be unlawful
for any person to practice or to offer to
practice engineering in this state, as defined
in the provisions of this act, or to use in
connection with his or her name or otherwise
assume, use or advertise any title or descrip-
tion tending to convey the impression that

Mr. Ellsworth E. Crowley
Page Two
February 26, 1976

he or she is an engineer, unless such person has been duly licensed under the provisions of this act."

Section 2 of this bill will amend K.S.A. 26a-101(a) so as to define the term "engineer" as:

"a person who, by reason of his or her special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering."

The term "practice of engineering" would be redefined at Section 2(e) to mean:

"The term 'practice of engineering,' within the intent of this act, shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the use of land and water, teaching advanced engineering subjects, engineering surveys and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work in connection with any utilities, structures, building, machines, equipment, processes, work systems, or projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional service as may be necessary to the planning, progress and completion of any engineering services.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this act, who practices any branch of the profession of engineering; or

Mr. Ellsworth E. Crowley
Page Three
February 26, 1976

who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself or herself to be an engineer, or through the use of some other title implies that he or she is an engineer or that one is registered under this act; or who holds himself or herself out as able to perform, or who does perform any engineering service or work or any other service designated by the practitioner which is recognized as engineering; Provided, however, That the provisions of this act shall not apply to or interfere with those persons and practices set forth in K.S.A. 26a-122."

If enacted, this bill would further amend K.S.A. 26a-121 to read in pertinent part:

"Any person who shall practice, or offer to practice engineering in the state of Kansas without being licensed in accordance with the provisions of this act or any person, firm, partnership, organization, or association, corporation or other entity using or employing the word 'engineer' or any modification or derivative thereof in its name or form of business or activity, except as authorized in this act, . . . [or who] shall attempt to use an expired, suspended or revoked license, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000), or suffer imprisonment for a period not exceeding six (6) months, or both."

Unaffected by the proposed amendments, K.S.A. 26a-123 further specifies that:

"This act shall not be construed to prevent or to affect:

(1) The practice of *any other recognized profession or trade*" [Emphasis supplied.]

Mr. Ellsworth E. Crowley
Page Four
February 26, 1976

Thus, the question becomes whether engineering geology constitutes a "recognized trade or profession" which under K.S.A. 26a-122 is unaffected by the act. The term "engineering geology" is defined by *Webster's Third New International Dictionary* (G & C Merriam Co. 1966) as "a branch of geology that deals with the application of geology to engineering." "Geology" itself is defined by the same dictionary as consisting of a number of subspecialties, including dynamic geology, economic geology, historical geology, paleontologic geology, physical geology, physiographic geology, and structural geology, as well as engineering geology. Thus, engineering geology is not a subspecialty of engineering, but of geology, and an engineering geologist appears to be a trained geologist who deals specially with the application of geologic principles to engineering. Geology is a universally recognized scientific discipline, and a geologist who devotes his professional training to a subspecialty thereof does not fall within the professional engineers' licensing act merely because the subspecialty includes the term "engineering" in its descriptive title.

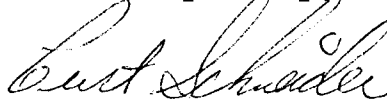
K.S.A. 26a-101 states thus, in pertinent part:

"It shall be unlawful for any person to practice or to offer to practice engineering in this state, as defined in . . . this act, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description tending to convey the impression that he or she is an engineer, unless such person has been duly licensed under the provisions of this act."

The term "engineering geologist" suggests, in and of itself, that the person using this descriptive title is, first, a geologist, and secondly, one versed in the specialty of that field known as engineering geology. It does not prima facie suggest that the user of the title is an engineer.

It is accordingly my opinion that the Association of Engineering Geologists, as well as its members, may use the term "engineering" descriptively in their titles and logo to describe the subspecialty of geology in which they are engaged, and that such use does not violate the Kansas Professional Engineers' License Act.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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