



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 88-118

Harold T. Walker, Esq.
City Attorney, Municipal Office Building
One Civic Center Plaza
Kansas City, Kansas 66101

Re: Fire Protection--Fire Safety and Prevention--
Safety Standards for Firefighters' Clothing

Synopsis: 1988 House Bill No. 2812 (L. 1988, ch. 126)
requires "any item of clothing . . . intended to
protect firefighters from death or injury while
fighting fires" to meet the standards established
by the National Fire Protection Association. This
requirement does not extend to work/station
clothing worn by firefighters while on duty.
Cited herein: L. 1988, ch. 126.

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Dear Mr. Walker:

As city attorney for Kansas City, Kansas, you request our
opinion as to whether 1988 House Bill No. 2812 (L. 1988, ch.
126) requires fire departments to equip their firefighters
with flame resistant station/work clothing.

1988 H.B. 2812 provides in pertinent part:
"Section 1. (a) No person shall knowingly
sell or offer for sale in this state to
any fire department any item of clothing
or equipment intended to protect
firefighters from death or injury while
fighting fires unless the item of

clothing or equipment meets or exceeds the minimum standards established for such item of clothing or equipment by the national fire protection association, in effect on the effective date of this act.

"(b) No fire department shall purchase in this state any item of clothing or equipment intended to protect firefighters from death or injury while fighting fires unless the item of clothing or equipment meets or exceeds the minimum standards established for such item of clothing or equipment by the national fire protection association, in effect on the effective date of this act." (Emphasis added.)

The National Fire Protection Association (NFPA) has set standards not only for protective clothing for structural fire fighting (NFPA No. 1971), but also has prescribed standards for station/work uniforms (NFPA No. 1975). The question you pose is whether the new statute requires garments that firefighters wear while on duty at the station to meet the NFPA standards.

An argument is made that the language "any item of clothing" mandates that station/work clothes also fall within the ambit of this bill. However, the Kansas Supreme Court has ruled that "[t]he fundamental rule, to which all other are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statutes." In re estate of Estes, 239 Kan. 192, 194-5 (1986). The new statute provides that the clothing which must meet the new standards is clothing "intended to protect firefighters from death or injury while fighting fires. . . ." (Emphasis added.) The inclusion of this emphasized language indicates that the legislature only intended that outer cover clothing worn by firefighters during an actual fire fighting situation must meet the standards set by the NFPA.

The Kansas Court has also stated that "[t]he first rule of statutory construction is to ascertain the intent of the legislature." State v. Ashley, 236 Kan. 551, 553 (1985) citing Johnston v. Tony's Pizza Service, 232 Kan. 848 (1983). To determine the legislature's intent, we have discussed the matter with James Todd of the Kansas Firefighters Association, a proponent of the bill. He

unequivocally said the bill was intended only to cover the outer gear firefighters use, such as gloves, coat, helmet and air packs. When he testified before the Senate Federal and State Affairs Committee, Mr. Todd took with him examples of protective outer gear only. Todd explained that the difficulty with prescribing standards for work/ station clothing is in extending these standards to volunteer firefighters who are called out at a moment's notice. Based on the language of the statute and the intent of the legislature, it is our opinion that 1988 House Bill No. 2812 (L. 1988, ch. 126) does not require work/station clothing worn by firefighters to meet the standards established by the NFPA.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Rita L. Noll
Assistant Attorney General

RTS:JLM:RLN:jm