

Kansas Department of Health and Environment

ECONOMIC IMPACT STATEMENT

Pursuant to the requirements of K.S.A. 7-416, and amendments thereto, the Kansas Department of Health and Environment (KDHE) submits the following economic impact statement for an amended Article 32 regulation concerning testing human breath for law enforcement purposes. This regulation is being promulgated as both a temporary and permanent regulation.

**1. Regulation to be amended:**

K.A.R. 28-32-11 EBAT device certification

**2. Brief description of each regulation and what is intended to be accomplished by adoption.**

K.A.R. 28-32-11. This regulation identifies the Evidential Breath Alcohol Test (EBAT) certification process and defines the scope of KDHE's role in authorizing breath alcohol equipment for the state of Kansas and its respective law enforcement agencies.

The proposed amendment will allow the flexibility needed to eliminate legal ambiguity as to EBAT equipment certified by KDHE and approved by the National Highway Traffic Safety Administration (NHTSA) but not clearly listed on the 2006 "conforming products list of evidential breath measurement devices" issued by NHTSA, as required by the current regulation.

The proposed amendment also will enable KDHE to update certified equipment without the necessity to wait on a federal list that is published inconsistently, sometimes decades apart.

**3. Is this regulation mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?**

Yes \_\_\_\_\_

No   X  

If yes, please explain.

**4. Does this proposed regulation exceed the requirements of applicable federal law?**

Yes \_\_\_\_\_

No   X  

If yes, please explain.

**5. Description of Costs:**

**(a) Cost to the agency:**

There is no additional cost to the agency. Any costs will be absorbed in the current budget.

**(b) Cost to persons who will bear the costs and those who will be affected (i.e., private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement:**

There is no known increase in costs.

**(c) Costs to other governmental agencies or units:**

There is no known additional cost to other governmental agencies or units to implement this proposed amended regulation.

**6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.**

No less costly or intrusive methods were identified.

**7. Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.**

The above mentioned amended regulations were determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties, and the Kansas Association of School Boards, pursuant to K.S.A. 77-416, and amendments thereto.

Yes   X  

No           

**If yes:**

Date contacted and by what means (i.e., letter, FAX, etc.): The three organizations will be contacted electronically with attached copies of the proposed regulation, economic impact statement and notice of hearing at the time the notice of hearing for the permanent regulation is published in the *Kansas Register*.

**Response and comments received by:**

League of Kansas Municipalities:

Kansas Association of Counties:

Kansas Association of School Boards: