

**HOUSE BILL No. 2576**

By Committee on Water and Environment

1-30

1 AN ACT concerning the Kansas asbestos control program; relating to fees,  
2 air quality fee fund; amending K.S.A. 2017 Supp. 65-3024, 65-5309  
3 and 65-5314 and repealing the existing sections.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2017 Supp. 65-3024 is hereby amended to read as  
7 follows: 65-3024. (a) The secretary may fix, charge and collect annual  
8 emissions fees in amounts necessary to pay the direct and indirect costs of  
9 administering the provisions of the Kansas air quality act. The secretary  
10 shall adopt rules and regulations fixing such fees and shall periodically  
11 increase or decrease such fees consistent with the need to cover the direct  
12 and indirect costs of administering the program. To the extent possible,  
13 annual emission fees shall be based upon actual emissions determined  
14 pursuant to rules and regulations adopted by the secretary. For purposes of  
15 determining emission fees for a facility, emissions of any single regulated  
16 pollutant in excess of 4,000 tons per year shall not be included in the  
17 calculation when determining the total emissions from the facility.

18 (b) There is hereby established in the state treasury the air quality fee  
19 fund. Revenue from the following sources shall be deposited in the state  
20 treasury and credited to the fund:

21 (1) Fees collected under subsection (a);

22 (2) any moneys recovered by the state under the provisions of this  
23 act, including permit and approval fees collected under K.S.A. 65-3008,  
24 and amendments thereto, administrative expenses, civil penalties and  
25 moneys paid under any agreement, stipulation or settlement; ~~and~~

26 (3) *fees collected under K.S.A. 65-5309, and amendments thereto,*  
27 *and penalties recovered under K.S.A. 65-5314, and amendments thereto;*  
28 *and*

29 (4) interest attributable to investment of moneys in the fund.

30 (c) Moneys deposited in the fund shall be expended only for the  
31 purpose of administering the Kansas air quality act, including funding of a  
32 technical and environmental compliance assistance program, and for no  
33 other governmental purposes.

34 (d) On or before the 10<sup>th</sup> of each month, the director of accounts and  
35 reports shall transfer from the state general fund to the air quality fee fund  
36 interest earnings based on:

1 (1) The average daily balance of moneys in the air quality fee fund  
2 for the preceding month; and

3 (2) the net earnings rate of the pooled money investment portfolio for  
4 the preceding month.

5 (e) All expenditures from the fund shall be made in accordance with  
6 appropriation acts upon warrants of the director of accounts and reports  
7 issued pursuant to vouchers approved by the secretary for the purposes set  
8 forth in this section.

9 Sec. 2. K.S.A. 2017 Supp. 65-5309 is hereby amended to read as  
10 follows: 65-5309. (a) The secretary shall establish by rules and regulations  
11 a reasonable schedule of fees for licensure and for project evaluations  
12 under this act. The fee schedule shall be established on the basis of  
13 determination by the secretary of the amount of revenue required for  
14 administration of the provisions of this act.

15 (b) The secretary shall remit all moneys received from the fees  
16 established pursuant to this section to the state treasurer in accordance with  
17 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
18 of each such remittance, the state treasurer shall deposit the entire amount  
19 in the state treasury to the credit of the ~~state general~~ *air quality fee* fund.

20 Sec. 3. K.S.A. 2017 Supp. 65-5314 is hereby amended to read as  
21 follows: 65-5314. (a) Any business entity which violates any provision of  
22 this act or any rules and regulations adopted under this act, in addition to  
23 any other penalty provided by law, may incur a civil penalty imposed  
24 under subsection (b) in an amount not to exceed \$5,000 for each violation  
25 and, in the case of a continuing violation, every day such violation  
26 continues shall be deemed a separate violation.

27 (b) The secretary, upon a finding that a business entity has violated  
28 any provision of this act or any rules and regulations adopted under this  
29 act, may impose a civil penalty within the limits provided in this section  
30 upon such business entity, which civil penalty shall be in an amount to  
31 constitute an actual and substantial economic deterrent to the violation for  
32 which the civil penalty is assessed.

33 (c) No civil penalty shall be imposed under this section except upon  
34 the written order of the secretary after notification and hearing, if a hearing  
35 is requested, in accordance with the provisions of the Kansas  
36 administrative procedure act.

37 (d) Any business entity aggrieved by an order of the secretary made  
38 under this section may appeal such order to the district court in the manner  
39 provided by the Kansas judicial review act. An appeal to the district court  
40 or to an appellate court shall not stay the payment of the civil penalty. If  
41 the court sustains the appeal, the secretary shall refund forthwith the  
42 payment of any civil penalty to the business entity with interest at the rate  
43 established by K.S.A. 16-204, and amendments thereto, from the date of

1 payment of the penalty.

2 (e) Any penalty recovered pursuant to the provisions of this section  
3 shall be remitted to the state treasurer, deposited in the state treasury and  
4 credited to the ~~state general~~ *air quality fee* fund.

5 Sec. 4. K.S.A. 2017 Supp. 65-3024, 65-5309 and 65-5314 are hereby  
6 repealed.

7 Sec. 5. This act shall take effect and be in force from and after its  
8 publication in the statute book.