

As Amended by House Committee

Session of 2022

HOUSE BILL No. 2531

By Committee on Agriculture

1-24

1 AN ACT concerning counties and townships; relating to rights-of-way;  
2 authorizing certain persons to use the right-of-way of any county road  
3 or township road to install, maintain and operate a pipeline for  
4 agricultural activities.  
5

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

7 Section 1. (a) Upon approval by the board of county commissioners,  
8 any person engaged in an agricultural activity may construct, maintain and  
9 operate pipelines in pursuit of an agricultural activity along, upon, under  
10 and across the right-of-way of any county road, as defined in K.S.A. 68-  
11 101(c), and amendments thereto, or any township road, as defined in  
12 K.S.A. 68-101(e), and amendments thereto, in conformity with the laws  
13 and regulations of the state of Kansas and the county in which the pipeline  
14 is located.

15 (b) Except for pipelines installed in violation of an express  
16 prohibition of the board of county commissioners in effect at the time of  
17 such installation, all pipelines for use in an agricultural activity installed  
18 along, upon, under and across a right-of-way of a county or township road  
19 prior to the effective date of this section are deemed to have been  
20 authorized by the board of county commissioners and are ratified as  
21 permitted uses of such rights-of-way.

22 (c) Any person engaged in an agricultural activity may request the  
23 board of county commissioners to approve a pipeline described in  
24 subsection (a) by submitting a written application to the county clerk. The  
25 application shall provide the location, design and specifications of the  
26 pipeline. **The application shall also provide the location of all locatable  
27 underground facilities in the area of the work and in the vicinity of the  
28 excavation. The governing body shall give written notice to each  
29 owner of such underground facilities and the owner of any land that is  
30 located within a quarter of a mile of such excavation.** Any application  
31 to use or occupy a specific portion of a road right-of-way shall not be  
32 denied or approved with conditions without reasonable notice and an  
33 opportunity for a public hearing before the board of county  
34 commissioners. The board of county commissioners shall approve or deny  
35 the application by resolution within ~~60~~ 90 days of receipt by the county  
36 clerk. A failure to approve or deny the application by resolution within ~~60~~

1 **90** days shall be deemed the approval of the application. Any approval or  
2 denial may be appealed pursuant to K.S.A. 19-223, and amendments  
3 thereto.

4 (d) Any decision made by the board of county commissioners  
5 pursuant to subsection (c) shall be:

6 (1) Limited to whether the pipeline interferes with public travel upon  
7 the road, **the management of conflicting uses of the road right-of-way**  
8 or the ability of the county or township to maintain the road or road right-  
9 of-way; and

10 (2) reasonable and not arbitrary, capricious or discriminatory.

11 (e) Any pipeline permitted under this section shall be maintained by  
12 and at the expense of the owner installing or operating such pipeline. **Such**  
13 **owner shall provide notice to the county of any maintenance activity**  
14 **that may require the temporary closing of a road or obstruction of**  
15 **traffic.**

16 (f) (1) A county commission or board of township trustees may  
17 require the owner of a pipeline approved under this section to:

18 (A) Repair all damage to a road or road right-of-way caused by the  
19 activities of such owner, or of any agent, affiliate, employee or  
20 subcontractor of such owner, while occupying, installing, repairing or  
21 maintaining the pipeline in a road or road right-of-way; and

22 (B) return the road and road right-of-way to its functional equivalence  
23 before the damage pursuant to the reasonable requirements and  
24 specifications of the county or township.

25 (2) If the owner fails to make the repairs required by the county or  
26 township, the county or township may make such repairs and charge the  
27 owner the cost of such repairs.

28 (3) If a county or township incurs damages as a result of a violation  
29 of this subsection, then the county or township shall have a cause of action  
30 against the owner for such violation of this subsection and may recover the  
31 county's-~~of~~ or township's damages, including reasonable attorney fees, if  
32 the owner is found liable by a court of competent jurisdiction.

33 (g) If requested by a county commission or board of township  
34 trustees, in order to accomplish construction and maintenance activities  
35 directly related to improvements to the road or road right-of-way, an  
36 owner of a pipeline approved under this section shall promptly relocate or  
37 adjust the pipeline within the road or road right-of-way at no cost to the  
38 county or township. Such relocation or adjustment shall be completed as  
39 soon as reasonably possible within the time set forth in any request by the  
40 county or township for such relocation or adjustment. Any damages  
41 suffered by the county, township, or its contractors as a result of such  
42 pipeline owner's failure to timely relocate or adjust its facilities shall be  
43 paid by such owner.

1       (h) **Any pipeline permitted under this act and installed on or after**  
2 **the effective date of this act shall be a locatable facility as defined in**  
3 **K.S.A. 66-1802(g), and amendments thereto.**

4       (i) For the purposes of this section, "agricultural activity" means the  
5 same as in K.S.A. 2-3203, and amendments thereto.

6       (†)(j) Nothing in this act shall supplant any local, state or federal law  
7 regulating the transportation of any substance.

8       Sec. 2. This act shall take effect and be in force from and after its  
9 publication in the statute book.