AN ACT concerning the Kansas department of health and environment; relating to the Kansas asbestos control program; fees and civil penalties; deposit in the air quality fee fund; amending K.S.A. 65-5309 and 65-5314 and repealing the existing sections.

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

Section 1. K.S.A. 65-5309 is hereby amended to read as follows: 65-5309. (a) The secretary shall establish by rules and regulations a reasonable schedule of fees for licensure and for project evaluations under this act. The fee schedule shall be established on the basis of determination by the secretary of the amount of revenue required for administration of the provisions of this act.

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

Sec. 2. K.S.A. 65-5314 is hereby amended to read as follows: 65-5314. (a) Any business entity which violates any provision of this act or any rules and regulations adopted under this act, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in an amount not to exceed $5,000 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

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

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

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

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

Sec. 3. K.S.A. 65-5309 and 65-5314 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.