

HOUSE BILL No. 2038

AN ACT creating the Kansas propane education and research council; providing for the powers, duties and functions thereof; providing for certain assessments.

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

Section 1. This act shall be known and may be cited as the Kansas propane education and research act.

Sec. 2. As used in this act: (a) “Council” means the Kansas propane education and research council established in section 3, and amendments thereto;

(b) “education” means any action that provides information, instruction or safety guidelines about propane, propane equipment, mechanical and technical practices and uses of propane to propane consumers or industry employees;

(c) “awareness” means any action that provides information or safety guidelines about propane, propane equipment, mechanical and technical practices and uses of propane to propane consumers or industry employees;

(d) “industry” means those persons involved in the production, transportation and sale of propane gas and in the manufacture and distribution of propane utilization equipment;

(e) “industry trade association” means an organization that represents a segment of the industry and which is exempt from tax under section 501 (c) (3) or (c) (6) of the federal internal revenue code of 1986, as in effect on July 1, 2002;

(f) “manufacturer and distributor of propane gas equipment” means any person engaged in the manufacturing, assembling and marketing of appliances, containers and products used in the propane gas industry and any person in the wholesale marketing of appliances, containers and products used in the propane gas industry;

(g) “odorized propane” means propane to which odorant has been added;

(h) “person” means any individual, group of individuals, partnership, association, cooperative, corporation or other legal entity;

(i) “placed into commerce” means delivered, transported for storage or sold within the state of Kansas;

(j) “propane” means propane, butane, mixtures and liquefied petroleum gas as defined by the national fire protection association standard, liquefied petroleum gas code, the chemical composition of which is predominantly C<sub>3</sub>H<sub>8</sub>, whether recovered from natural gas or from crude oil;

(k) “public member” means a member of the council selected from among users of odorized propane, organizations representing users of odorized propane, public safety officials or state propane gas regulatory officials;

(l) “qualified industry organization” means the propane marketers association of Kansas, a successor association or any other propane industry organization or industry trade association the members of which are engaged in the sale or distribution of odorized propane, or the sale of propane utilization equipment, to the ultimate consumer;

(m) “research” means any type of study, investigation or other activity performed by a qualified public or private research group for the purpose of advancing and improving the existing technology related to the propane industry, including the development of increased efficiency of propane use, enhancing the safety of propane and propane utilization equipment and furthering the development of such information and products;

(n) “retail marketer” means any person engaged in the sale of odorized propane to the ultimate consumer or to retail propane dispensers within Kansas;

(o) “transporter” means any person involved in the commercial transportation of propane by pipeline, truck, rail or water; and

(p) “wholesaler, reseller, supplier or importer” means the owner of the propane at the time it is first sold to a retail marketer in Kansas regardless of the state where production occurs, with ownership of the propane determined by the freight on board designation.

Sec. 3. (a) The Kansas propane education and research council is hereby created. Members of the council shall be appointed by the governor from a list of nominees submitted by qualified industry organizations within 60 days after the effective date of this act. The council shall

consist of 10 members, including four members representing retail marketers of propane; two members representing wholesalers, resellers, suppliers and importers of propane; two members representing manufacturers and distributors of propane gas equipment and transporters of propane; one public member; and the state fire marshal or the state fire marshal's designee who shall serve as an ex officio member.

(b) Members of the council shall serve terms of three years, except that, of the initial members, three shall be appointed for terms of one year and three shall be appointed for terms of two years, as designated by the governor. Members filling unexpired terms shall be appointed in a manner consistent with this section. Members may serve a maximum of two consecutive full terms, except that members filling unexpired terms may serve a maximum of eight consecutive years. Former members may be reappointed if they have not been members for a period of two years.

(c) The council shall select from among the council's members a chairperson and other officers as necessary, establish committees and subcommittees of the council and adopt rules and regulations and bylaws for the conduct of business. The council may establish advisory committees of persons other than council members.

(d) The council may employ an executive director to serve as chief executive officer and such other employees as it deems necessary. The council shall determine the compensation and duties of each and shall protect the handling of council funds through fidelity bonds.

(e) The administrative costs of operating the council shall not exceed 10% of the funds collected in any fiscal year.

(f) At the beginning of each fiscal year, the council shall prepare a budget plan that includes the estimated costs of all programs, projects and contracts of the council. The council shall provide an opportunity for public comment on the budget. The council shall prepare and make available to the public an annual report detailing the activities of the council in the previous year, those planned for the coming year and costs related to the activities.

(g) The council shall keep minutes, books and records that clearly reflect all of the acts and transactions of the council. The books of the council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. Copies of audits shall be provided to the executive director, to all members of the council and to any other member of the industry upon request.

(h) The council shall be subject to the Kansas open meetings act and shall require reports on the activities of the committees and subcommittees and on compliance, violations and complaints regarding the implementation of this act.

(i) The council shall develop programs and projects and enter into contracts or agreements for implementing this act, including programs to enhance consumer and employee safety and training, programs to provide research and development to improve existing propane technology, programs to increase efficiency of propane use and any other programs to educate the public about the safety and environmental aspects of propane. Safety issues shall receive first priority in the development of all programs and projects funded by the council. The funds collected for the council shall not be used to promote one energy source over another. In developing programs and projects and entering into contracts or agreements for implementing the provisions of this act, the council shall not use any funds collected by the council to provide for or assist the purchase of equipment related to such programs and projects by or for a private, for profit corporation or other business association or entity. The council shall not use any funds collected by the council to purchase propane products and equipment or replace propane products and equipment for Kansas consumers, including through cost-share programs, except that the council may use such funds for the purchase of propane products and equipment for displays in such programs or projects. The council shall provide for the payment of the costs of the programs and projects with funds collected pursuant to section 4, and amendments thereto, and shall coordinate the council's activities with qualified industry organizations to provide efficient delivery of services and to avoid unnecessary costs of duplication of activities.

(j) The council shall report annually to the house and senate com-

mittees on agriculture. Such report shall include details of council programs, projects and activities as provided pursuant to this act. The report provided in 2004 shall include a review of propane safety policies, statutes, rules and regulations in Kansas and adjoining states and shall include recommendations the council deems appropriate for policy, statutory or regulatory changes in Kansas to improve propane safety.

Sec. 4. (a) Except as otherwise provided by law, there shall be an assessment as provided in this section on odorized propane. The council shall set the initial assessment at no greater than  $\frac{2}{10}$  of one cent per gallon of odorized propane. Thereafter, annual assessments shall be sufficient to cover the costs of plans and programs developed by the council. The assessment shall not be greater than  $\frac{3}{10}$  of one cent per gallon of odorized propane. In no case may the assessment be raised by more than  $\frac{1}{10}$  of one cent per gallon of odorized propane annually.

(b) The owner of propane at the time of odorization, or the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce. The assessment, when made, shall be listed as a separate line item on the bill labeled “Kansas propane education and research assessment” or “KanPERC.” Assessments collected from purchasers of propane are payable to the council on a monthly basis by the 25th of the month following the month of collection. If payment is not made to the council by the due date under this subsection, an interest penalty of 1% of any amount unpaid shall be added for each month or fraction of a month after the due date, until final payment is made. The council may establish an alternative means of collecting the assessment if another means is found to be more efficient and effective. The council may establish a late payment charge and rate of interest to be imposed on any person who fails to remit or pay to the council any amount due under this act.

(c) Pending disbursement pursuant to a program, plan or project, the council shall invest funds collected through assessments, and any other funds received by the council, only in obligations of the United States or any agency thereof, in general obligations of any state or political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the federal reserve system, or in obligations fully guaranteed as to principal and interest by the United States.

(d) The price of propane shall be determined by market forces consistent with antitrust laws and no provision of this act shall be interpreted as allowing a pass through to consumers of the assessment determined by the council pursuant to subsection (a).

(e) Any rebate funds received from the national propane education and research council from assessments collected on odorized propane distributed from Kansas shall be the property of the Kansas propane education and research council and the use of such funds shall be determined by the Kansas council for the intended purposes of this act.

(f) Any person who unreasonably fails or refuses to pay any assessments due under this act may be subject to legal action by the council to recover the assessments due, plus interest and costs.

Sec. 5. Except as provided in subsection (j) of section 3, moneys collected by the council shall be expended only for the purposes of this act and shall not be used in any manner for influencing legislation or for political campaign contributions.

Sec. 6. The provisions of this act do not preempt or supersede any other program relating to propane safety or education which has been organized and is operating under the laws of this state.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*