

SENATE BILL No. 5

AN ACT concerning the definition of trade secrets; amending K.S.A. 40-3805, 40-4205, 48-1614, 49-427, 65-170g, 65-657, 65-3015, 65-3447, 65-34,102, 66-1220a, 74-8104 and 74-8307 and repealing the existing sections.

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

Section 1. K.S.A. 40-3805 is hereby amended to read as follows: 40-3805. Every administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in K.S.A. 40-3802 and five (5) years thereafter adequate books and records of all transactions between it, insurers and insured persons. Such books and records shall be maintained in accordance with prudent standards of insurance record keeping. The commissioner of insurance shall have access to such books and records for the purpose of examination, audit and inspection. Any ~~trade secrets~~ information contained therein *which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)*, including but not limited to the identity and addresses of policyholders and certificateholders, shall be confidential, except the commissioner may use such information in any proceedings instituted against the administrator. The insurer shall retain the right to continuing access to such books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and administrator on the proprietary rights of the parties in such books and records.

Sec. 2. K.S.A. 40-4205 is hereby amended to read as follows: 40-4205. For the duration of the written agreements referred to in K.S.A. 40-4202 and for five years thereafter, every prepaid service plan shall maintain at its principal administrative office adequate books and records of all transactions between the prepaid service plan and the providers and members thereof. Such books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The commissioner of insurance shall have access to such books and records for the purpose of examination, audit and inspection. Any ~~trade secrets~~ information contained therein *which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)*, including but not limited to the identity and addresses of members, shall be confidential, except that the commissioner may use such information in any proceedings instituted against a prepaid service plan.

Sec. 3. K.S.A. 48-1614 is hereby amended to read as follows: 48-1614. Any report of investigation or inspection, or any information ~~concerning trade secrets~~ *which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)* or secret industrial processes obtained by a department or agency from any person in carrying out their responsibilities under this act shall not be disclosed or opened to public inspection except as may be necessary for the performance of the functions of such department or agency. It is the affirmative duty of such person to inform such department or agency of their claim to a trade secret or secret industrial process.

Sec. 4. K.S.A. 49-427 is hereby amended to read as follows: 49-427. (a) Coal exploration operations which substantially disturb the natural land surface shall be conducted in accordance with exploration regulations issued by the secretary. Such regulations shall include, at a minimum (1) the requirement that prior to conducting any exploration under this section, any person must file with the department a notice of intention to explore and such notice shall include a description of the exploration area and the period of supposed exploration and (2) provisions for reclamation in accordance with the performance standards of this act of all lands disturbed in exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment.

(b) Information submitted to the department pursuant to this section ~~as confidential concerning trade secrets~~ *which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)*, or information submitted to the department as privileged commercial or financial information which relates to the competitive rights of the person or entity intended to explore the described area *shall be considered confidential and* shall not be available for public examination.

(c) Any person who conducts any coal exploration activities which substantially disturb the natural land surface in violation of this section

or regulations issued pursuant thereto shall be subject to the penalty provisions of this act.

(d) No operator shall remove more than 250 tons of coal pursuant to an exploration permit without specific written authority of the secretary.

Sec. 5. K.S.A. 65-170g is hereby amended to read as follows: 65-170g. Records, reports, data or other information obtained relative to or from sources or potential sources of discharges of water pollutants shall be available to the public except that upon a showing satisfactory to the secretary of health and environment by any person that such records, reports, data or other information would divulge methods or processes entitled to protection as trade secrets *under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)*, then the secretary of health and environment shall consider such records, reports, data, or other information as confidential. ~~Provided, That~~ Nothing in this act shall be construed to make confidential any effluent data, including records, reports or information and permits, draft permits and permit applications. Any such records, reports, data, or other information considered confidential may be made available to other officers, employees; or authorized representatives of the federal, state; and local government with responsibilities in water pollution control and additionally may be utilized in any proceeding whether civil or criminal.

Sec. 6. K.S.A. 65-657 is hereby amended to read as follows: 65-657. The following acts and the causing thereof within the state of Kansas are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic knowing it to be adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of K.S.A. 65-666.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by K.S.A. 65-674.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of K.S.A. 65-660.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized, or required by regulations promulgated under the provisions of this act.

(k) The using of any person to ~~his~~ *such person's* own advantage, or revealing, other than to the administrator or officers or employees of the department of health and environment or to the courts where relevant in any jurisdictional proceeding under this act, any information acquired under authority of this act concerning any method or process which *constitutes a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)* and as a trade secret is entitled to protection.

(l) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under K.S.A. 65-669a, as amended, or that such drug complies with the provisions of such section.

(m) In the case of a prescription drug distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer such drug who makes written request for

information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this act.

(n) (1) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or (2) selling, dispensing, disposing of or causing to be sold, dispensed or disposed of or concealing or keeping in possession, control or custody, with intent to sell, dispense or dispose of, any drug, device or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by subsection (1) hereof; or (3) making, selling, disposing of or causing to be made, sold or disposed of or keeping in possession, control or custody, or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device or container thereof.

(o) Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the person ordering or prescribing.

Sec. 7. K.S.A. 65-3015 is hereby amended to read as follows: 65-3015. (a) Except as provided in subsection (b), any records, reports or information obtained pursuant to this act shall be available to the public.

(b) Upon a showing satisfactory to the secretary by any person that records, reports or information, or a particular part thereof (other than emission data), to which the secretary has access under this act, if made public, would divulge methods or processes entitled to protection as trade secrets of such person *under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)*, the secretary shall consider such record, report or information, or particular portion thereof, confidential, except that: (1) Such record, report or information may be disclosed to officers, employees or authorized representatives of the United States government concerned with carrying out responsibilities under the federal clean air act and amendments thereto; and (2) this subsection shall not apply to any provision in any air quality approval or permit issued by the secretary and the public shall have access to such approvals and permits in their entirety.

Sec. 8. K.S.A. 65-3447 is hereby amended to read as follows: 65-3447. Any person submitting any records, reports, documents, or information required by this act, may upon a showing satisfactory to the secretary, claim any portion of such record, report, document, or information confidential as a trade secret. “Trade secrets *secret*” as used in this section ~~may include, but are not limited to, customer lists, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented, which is known only to certain individuals within a commercial concern using it to fabricate, produce or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it shall have the same meaning as provided in K.S.A. 60-3320 and amendments thereto.~~ The department shall establish procedures to insure that trade secrets are utilized by the secretary or any authorized representatives of the secretary only in connection with the responsibilities of the department pursuant to this act. Trade secrets shall not be otherwise used or disseminated by the secretary or any representative of the secretary without the consent of the person furnishing the information. Such record, report, document, or information may be disclosed to other officers, employees or authorized representatives of the state of Kansas concerned with carrying out this act or when relevant in any proceeding under this act. Such records, reports, documents or information may be disclosed to authorized representatives of the administrator of the United States environmental protection agency in connection with any regulation promulgated by the

agency or memorandum of agreement with the department pursuant to that agency's responsibilities under the Resource Conservation and Recovery Act of 1976 (42 USC 6926). In submitting any confidential information under this subsection the secretary shall submit the claim of confidentiality to the United States environmental protection agency.

Sec. 9. K.S.A. 65-34,102 is hereby amended to read as follows: 65-34,102. As used in the Kansas storage tank act:

(a) "Aboveground storage tank" means:

(1) Any storage tank in which greater than 90% of the tank volume, including volume of the piping, is not below the surface of the ground; or

(2) any storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor.

(b) "Aboveground fund" means the aboveground petroleum storage tank release trust fund.

(c) "Department" means the Kansas department of health and environment.

(d) "Facility" means all contiguous land, structures and other appurtenances and improvements on the land used in connection with one or more storage tanks.

(e) "Federal act" means the solid waste disposal act, 42 U.S.C. sections 3152 *et seq.*, as amended, particularly by the hazardous and solid waste amendments of 1984, P.L. 98-616, 42 U.S.C. sections 6991 *et seq.*, as amended by P.L. 99-499, 1986, and rules and regulations adopted pursuant to such federal laws and in effect on the effective date of this act.

(f) "Financial responsibility" means insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer or any other method satisfactory to the secretary to provide for taking corrective action, including cleanup and restoration of any damage to the land, air or waters of the state, and compensating third parties for cleanup, bodily injury or property damage resulting from a sudden or nonsudden release of a regulated substance arising from the construction, relining, ownership or operation of an underground storage tank and in the amount specified in the federal act.

(g) "Guarantor" means any person, other than an owner or operator, who provides evidence of financial responsibility for an owner or operator.

(h) "Operator" means any person in control of or having responsibility for the daily operation of a storage tank, but such term shall not include a person whose only responsibility regarding such storage tank is filling such tank with a regulated substance and who does not dispense or have control of the dispensing of regulated substances from the storage tank.

(i) "Own" means to hold title to or possess an interest in a storage tank or the regulated substance in a storage tank.

(j) (1) "Owner" means any person who: (A) Is or was the owner of any underground storage tank which was in use on November 8, 1984, or brought into use subsequent to that date; (B) in the case of an underground storage tank in use prior to November 8, 1984, owned such tank immediately prior to the discontinuation of its use; (C) is or was the owner of any aboveground storage tank which was in use on July 1, 1992, or brought into use subsequent to that date; or (D) in the case of an aboveground storage tank in use prior to July 1, 1992, owned such tank immediately prior to the discontinuation of its use.

(2) Owner does not include: (A) A person who holds an interest in a petroleum storage tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the storage tank; and (B) any city or county which obtains a storage tank or regulated substance as a result of tax foreclosure proceedings.

(k) "Person" means an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, association, state, interstate body, municipality, commission, political subdivision or any agency, board, department or bureau of this state or of any other state or of the United States government.

(l) "Petroleum" means petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pres-

sure (60 degrees Fahrenheit and 14.7 pound per square inch absolute), including but not limited to, gasoline, gasohol, diesel fuel, fuel oils and kerosene.

(m) “Petroleum product” means petroleum other than crude oil.

(n) “Petroleum storage tank” means any storage tank used to contain an accumulation of petroleum.

(o) “Regulated substance” means petroleum or any element, compound, mixture, solution or substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 of the United States as in effect on January 1, 1989, but not if regulated as a hazardous waste under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Secs. 6921 through 6939b), as in effect on January 1, 1989.

(p) “Release” means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into groundwater, surface water or soils.

(q) “Removal” means the process of removing or disposing of a storage tank, no longer in service, and also shall mean the process of abandoning such tank, in place.

(r) “Repair” means modification or correction of a storage tank through such means as relining, replacement of piping, valves, fillpipes, vents and liquid level monitoring systems, and the maintenance and inspection of the efficacy of cathodic protection devices, but the term does not include the process of conducting a tightness test to establish the integrity of a tank.

(s) “Secretary” means the secretary of health and environment.

(t) “Storage tank” means any one or combination of tanks used to contain an accumulation of regulated substances, the associated piping and ancillary equipment and the containment system.

(u) “Tank” means a stationary device designed to contain an accumulation of substances and constructed of non-earthen materials such as concrete, steel or plastic, that provide structural support.

(v) “Terminal” means a bulk storage facility for storing petroleum supplied by pipeline or marine vessel.

(w) “Trade secret” ~~means, but is not limited to, any customer lists, any formula, compound, production data or compilation of information which is not patented and which is known only to certain individuals within a commercial concern using it to fabricate, produce or compound an article of trade, or any service having commercial value, which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it has the same meaning as provided in K.S.A. 60-3320 and amendments thereto.~~

(x) “Underground storage tank” means any storage tank in which 10% or more of the tank volume, including volume of the piping, is below the surface of the ground. Underground storage tank does not include any storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor.

(y) “Underground storage tank contractor” or “contractor” means a business which holds itself out as being qualified to install, repair or remove underground storage tanks.

(z) “Underground fund” means the underground petroleum storage tank release trust fund.

(aa) “Underground storage tank installer” or “installer” means an individual who has an ownership interest or exercises a management or supervisory position with an underground storage tank contractor. The term shall include the crew chief, expeditor, engineer, supervisor, leadman or foreman in charge of a tank installation project.

Sec. 10. K.S.A. 66-1220a is hereby amended to read as follows: 66-1220a. (a) The state corporation commission shall not disclose to or allow inspection by anyone, including but not limited to parties to a regulatory proceeding before the commission, any *information which is a trade secret under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)* or any confidential commercial information of a corporation, partnership or individual proprietorship regulated by the commission unless the commission finds that disclosure is warranted after consideration of the following factors:

(1) Whether disclosure will significantly aid the commission in fulfilling its functions;

(2) the harm or benefit which disclosure will cause to the public interest;

(3) the harm which disclosure will cause to the corporation, partnership or sole proprietorship; and

(4) alternatives to disclosure that will serve the public interest and protect the corporation, partnership or sole proprietorship.

(b) If the state corporation commission finds that disclosure is warranted pursuant to subsection (a), the commission shall give the corporation, partnership or individual proprietorship notice before disclosing the trade secret or confidential commercial information.

Sec. 11. K.S.A. 74-8104 is hereby amended to read as follows: 74-8104. (a) The corporation shall have all the powers necessary to achieve the purposes, specified in K.S.A. 74-8102, and amendments thereto, including the power to:

(1) Make, amend and repeal bylaws, rules and regulations for the management of its affairs;

(2) sue and be sued;

(3) make contracts and execute all instruments necessary or convenient for carrying out its business;

(4) acquire, own, hold, dispose of and encumber real or personal property of any nature, both tangible and intangible, or any interest therein;

(5) enter into agreements or other transactions with any federal, state, county or municipal agency and with any individual, corporation, enterprise, association or any other entity involving applied research and technology;

(6) acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the corporation has an interest;

(7) sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(8) invest any funds appropriated by the state and held in reserve in funds not required for immediate disbursement, in such investments that may be lawful for fiduciaries in this state, and invest funds received from gifts, grants, donations and other operations of the corporation in such investments as would be lawful for a private corporation having purposes similar to the corporation;

(9) borrow money and give guaranties, provided that the indebtedness and other obligations of the corporation shall be payable solely out of its own resources, and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;

(10) appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;

(11) appear in its own behalf before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

(12) procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

(13) consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the purposes of this act, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the corporation is a party;

(14) accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the purposes specified in this act, in accordance with the terms and conditions of any such grant;

(15) trade, buy or sell qualified securities, including without limitation, the powers to guarantee, purchase, take, receive, subscribe for or otherwise acquire, to own, hold, use or otherwise employ; to sell, lease, exchange, transfer or otherwise dispose of; to mortgage, lend, pledge or otherwise deal in and with, qualified securities issued by any other domestic or foreign corporation, partnership, association, limited liability company, or business trust, whether or not such issuer was organized or caused to be organized by the corporation. The corporation, while owner of any such qualified securities, may exercise all of the rights, powers and privileges of ownership, including without limitation the right to vote;

(16) finance, conduct or cooperate in the financing or conducting of scientific, technological, business, financial or other investigations which are related to or likely to lead to business and economic development, involving natural resources, innovation, applied research and new technology, by making and entering into contracts or other appropriate arrangements, including the provisions of grants, loans and other forms of assistance;

(17) solicit, study and assist in the preparation of business plans and proposals of new or established resource and technologically oriented enterprises of special importance to the Kansas economy;

(18) prepare, publish and distribute such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for confidentiality of the client proprietary information, and encourage educational institutions to develop and disseminate similar materials;

(19) organize, conduct, sponsor or cooperate with, and assist both the private sector and educational institutions in the conduct of, special institutes, conferences, demonstrations and studies relating to the stimulation and formulation of innovation, applied science and technologically oriented enterprises and studies relating to the formulation of resource and technologically oriented enterprises and industry endeavors;

(20) provide and pay for such advisory services and technical assistance that may be necessary or desirable to carry out the purposes of this act;

(21) own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the corporation in a private enterprise or when the corporation finances a product developed by a private enterprise;

(22) negotiate royalty payments to the corporation on patents and licenses for innovations or inventions arising in the course of research sponsored by the corporation at educational institutions under the jurisdiction of the Kansas board of regents; such negotiated royalty arrangements should reflect an appropriate sharing of legal risk as well as financial return between the corporation and educational institution; such patents and licenses shall be in keeping with the patent policies of the Kansas board of regents;

(23) exercise any other powers necessary for the operation and functioning of the corporation within the purposes authorized in this act;

(24) participate with any state agency or educational institution in developing specific programs and goals to assist in the development of industrial innovation, applied research and new technology of special importance to the Kansas economy, and monitor performance;

(25) cooperate with the department of commerce regarding financial assistance programs targeted to small enterprises of special importance to the Kansas economy;

(26) provide resource-based, scientific and technological data and information required by the governor, the legislature, or its committees, and to state agencies, educational institutions and cities, counties and school districts and to private citizens and groups, within the limitations of the resources available to the corporation. This service shall be in addition to any services currently provided by any educational institution, committee or other organization in the state.

(b) The corporation shall be exempt from all franchise, corporate business and income taxes levied by the state. However, this act is not intended to exempt from any such taxes, or from any taxes levied in connection with the manufacture or sale of any products or processes which

are the subject of any agreement made by the corporation, or any person entering into any agreement with the corporation.

(c) Documents and other materials submitted to the corporation by Kansas businesses shall not be public records if such records are ~~determined to be trade secrets under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)~~ or are determined by the corporation to be business secrets, and shall be maintained in a secured environment by the president.

(d) The corporation shall not be subject to state purchasing laws.

Sec. 12. K.S.A. 74-8307 is hereby amended to read as follows: 74-8307. (a) To continue in certification, a Kansas venture capital company must:

(1) Invest at least 30% of its original capitalization at the end of the initial three years in such a manner as to acquire equity in the ventures in which the investments are made;

(2) have invested at least 50% in the same manner at the end of five years; and

(3) have invested at least 75% in the same manner at the end of seven years.

(b) Invest at least 60% of the total investment of the Kansas venture capital company in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity within the state, or to add value to goods or services produced or processed within the state.

(c) Until such time as Kansas Venture Capital, Inc. redeems the nonvoting preferred stock representing the investment made by the pooled money investment board pursuant to K.S.A. 74-8203, and amendments thereto, funds invested by Kansas Venture Capital, Inc. shall be invested at 100% in Kansas businesses or in Kansas venture capital companies which invest 100% of the funds invested in such companies by Kansas Venture Capital, Inc. in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity within the state, or to add value to goods or services produced or processed within the state. After such redemption by Kansas Venture Capital, Inc., the requirements of this subsection shall expire.

(d) No more than 20% of the assets of a Kansas venture capital company may be invested in the equity of a single business at any one time, unless the Kansas venture capital company can reasonably demonstrate that a greater percentage in a single company at any one time is the result of losses suffered by the Kansas venture capital company in other investments.

(e) The use of invested funds by a Kansas business for oil and gas exploration and development, for real estate development or appreciation, for banking or lending operations, or service or retail are not acceptable investments to qualify for the tax credit provided in this act. Any investments by Kansas venture capital companies in any of these sectors shall not be counted as equity investments for the purpose of continuing certification under this section.

(f) For a service sector firm to be considered as an eligible investment under the provisions of this act, the firm must fall within standard industrial classification codes major service sector groups 70 through 89, and must also demonstrate one of the following:

(1) More than one-half of its gross revenues are a result of sales to commercial or governmental customers outside the state of Kansas; or

(2) more than one-half of its gross revenues are a result of sales to Kansas manufacturing firms within major groups 20 through 39; or

(3) more than one-half of its gross revenues are a result of a combination of sales described in (1) and (2).

(g) Documents and other materials submitted by Kansas venture capital companies or by Kansas businesses for purposes of the continuance and certification shall not be public records if such records are ~~determined by the secretary to be trade secrets under the uniform trade secrets act (K.S.A. 60-3320 et seq. and amendments thereto)~~ or determined by the secretary to be business secrets ~~under the uniform trade secrets act (K.S.A. 60-3320 to 60-3330, inclusive, and amendments thereto)~~ and shall be maintained in a secured environment by the secretary.

(h) At the time of an initial investment by a certified Kansas venture



capital company, no investors in that certified Kansas venture capital company shall own a majority equity interest in a business in which the venture capital company is investing.

Sec. 13. K.S.A. 40-3805, 40-4205, 48-1614, 49-427, 65-170g, 65-657, 65-3015, 65-3447, 65-34,102, 66-1220a, 74-8104 and 74-8307 are hereby repealed.

Sec. 14. 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 SENATE, and passed that body

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

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

Passed the HOUSE \_\_\_\_\_

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

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

APPROVED \_\_\_\_\_

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