

HOUSE BILL No. 2577

By Committee on Appropriations

3-14

9 AN ACT concerning hazardous material assessment and response; relat-
10 ing to authority of the state fire marshal; determination of responsible
11 party; recovery of hazardous material team response costs from re-
12 sponsible party; amending K.S.A. 2006 Supp. 31-133 and repealing the
13 existing section.
14

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

16 Section 1. K.S.A. 2006 Supp. 31-133 is hereby amended to read as
17 follows: 31-133. (a) The state fire marshal shall adopt reasonable rules
18 and regulations, consistent with the provisions of this act, for the safe-
19 guarding of life and property from fire, explosion and hazardous materials.
20 Such rules and regulations shall include, but not be limited to the
21 following:

22 (1) The keeping, storage, use, sale, handling, transportation or other
23 disposition of highly flammable materials, including crude petroleum or
24 any of its products, natural gas for use in motor vehicles, and of explosives,
25 including gunpowder, dynamite, fireworks and firecrackers; and any such
26 rules and regulations may prescribe the materials and construction of
27 receptacles and buildings to be used for any of such purposes;

28 (2) the transportation of liquid fuel over public highways in order to
29 provide for the public safety in connection therewith;

30 (3) the construction, maintenance and regulation of exits and fire es-
31 capes from buildings and all other places in which people work, live or
32 congregate from time to time for any purpose, including apartment
33 houses, as defined by K.S.A. 31-132a, and amendments thereto. Such
34 rules and regulations shall not apply to buildings used wholly as dwelling
35 houses containing no more than two families;

36 (4) the installation and maintenance of equipment intended for fire
37 control, detection and extinguishment in all buildings and other places in
38 which persons work, live or congregate from time to time for any purpose,
39 including apartment houses as defined by K.S.A. 31-132a, and amend-
40 ments thereto. Such rules and regulations shall not apply to buildings
41 used wholly as dwelling houses containing no more than two families;

42 (5) requiring administrators of public and private schools and edu-
43 cational institutions, except community colleges, colleges and universities,

1 to conduct at least one fire drill each month at some time during school
2 hours, aside from the regular dismissal at the close of the day's session,
3 and prescribing the manner in which such fire drill is to be conducted;
4 (6) procedures for the reporting of fires and explosions occurring
5 within the state and for the investigation thereof;
6 (7) procedures for reporting by health care providers of treatment of
7 second and third degree burn wounds involving 20% or more of the vic-
8 tim's body and requiring hospitalization of the victim, which reporting is
9 hereby authorized notwithstanding any provision of K.S.A. 60-427, and
10 amendments thereto, to the contrary;
11 (8) requiring administrators of public and private schools and edu-
12 cational institutions, except community colleges, colleges and universities,
13 to establish tornado procedures, which procedures shall provide for at
14 least three tornado drills to be conducted each year at some time during
15 school hours, aside from the regular dismissal at the close of the day's
16 session, shall describe the manner in which such tornado drills are to be
17 conducted, and shall be subject to approval by the state fire marshal;
18 (9) requiring administrators of community colleges, colleges and uni-
19 versities to establish tornado procedures, which procedures shall be sub-
20 ject to approval by the director of the disaster agency of the county;
21 (10) the development and implementation of a statewide system of
22 hazardous materials assessment and response *and the recovery of haz-*
23 *ardous material team response costs and expenses*;
24 (11) the use of pyrotechnics, pyrotechnic devices and pyrotechnic
25 materials; and
26 (12) other safeguards, protective measures or means adapted to ren-
27 der inherently safe from the hazards of fire or the loss of life by fire any
28 building or other place in which people work, live or congregate from
29 time to time for any purpose, except buildings used wholly as dwelling
30 houses containing no more than two families.
31 (b) Any rules and regulations of the state fire marshal adopted pur-
32 suant to this section may incorporate by reference specific editions, or
33 portions thereof, of nationally recognized fire prevention codes.
34 (c) The rules and regulations adopted pursuant to this section shall
35 allow facilities in service prior to the effective date of such rules and
36 regulations, and not in strict conformity therewith, to continue in service,
37 so long as such facilities are not determined by the state fire marshal to
38 constitute a distinct hazard to life or property. Any such determination
39 shall be subject to the appeal provisions contained in K.S.A. 31-140, and
40 amendments thereto.
41 New Sec. 2. (a) The state fire marshal may conduct an investigation
42 to determine whether any person is responsible for the discharge, aban-
43 donment or disposal of hazardous substances that prompts a hazardous

1 material team response. The investigation may include, but is not limited
2 to, ordering production of documents from suspected responsible per-
3 sons. Upon determination that a person is responsible, the state fire mar-
4 shal shall notify the responsible person of the costs and expenditures
5 incurred because of the hazardous material team response and the costs
6 and expenditures directly related to the investigation. The state fire mar-
7 shal shall direct the responsible person to repay such costs and expendi-
8 tures. If the responsible person fails to pay, such costs and expenditures
9 shall be recoverable in an action brought against the responsible person
10 by the state fire marshal in the district court of Shawnee county.

11 (b) The costs and expenditures sought by the state fire marshal pur-
12 suant to this section shall be in addition to any clean up costs or other
13 remedial actions that are or may be sought by the secretary of health and
14 environment pursuant to K.S.A. 65-3455, and amendments thereto.

15 (c) All moneys recovered pursuant to this section shall be remitted
16 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
17 and amendments thereto. Upon receipt of each such remittance, the state
18 treasurer shall deposit the entire amount in the state treasury to the credit
19 of the hazardous materials emergency fund.

20 (d) Any person adversely affected by any order or decision of the state
21 fire marshal pursuant to this section may submit a written request for a
22 hearing. Such request shall be submitted within 15 days of service of the
23 order or decision. Hearings under this section shall be conducted in ac-
24 cordance with the provisions of the Kansas administrative procedure act.

25 (e) Any person adversely affected by any action of the state fire mar-
26 shal pursuant to this section may obtain review of such action in accord-
27 ance with the act for judicial review and civil enforcement of agency
28 actions.

29 Sec. 3. K.S.A. 2006 Supp. 31-133 is hereby repealed.

30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the Kansas register.