

As Amended by House Committee

Session of 2014

HOUSE BILL No. 2545

By Agriculture and Natural Resources Budget Committee

1-31

1 AN ACT concerning the Kansas department of agriculture; relating to fees;
2 extending sunset date on certain fees; amending K.S.A. 2013 Supp. 2-
3 2440, 2-2440b, 2-2443a, 2-2445a, 2-3304, 2-3306, 65-778, 65-781,
4 82a-708a, 82a-708b, 82a-708c, 82a-714 and 82a-727 and repealing the
5 existing sections.

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

8 Section 1. K.S.A. 2013 Supp. 2-2440 is hereby amended to read as
9 follows: 2-2440. (a) Subject to the provisions of subsection (d), it is
10 unlawful for any pesticide business which has not been issued a pesticide
11 business license to:

12 (1) Advertise, offer for sale, sell or perform any service for the
13 control of a pest on the property of another or apply a pesticide to the
14 property of another within this state; or

15 (2) perform any service for the control of a pest or apply any
16 pesticide on or at the premises of another person under any commission,
17 division of receipts or subcontracting arrangement with a licensed
18 pesticide business.

19 Nothing in this subsection shall be construed to require the licensing of
20 any person applying restricted use pesticides to the property of another as
21 a certified private applicator or under the supervision of a certified private
22 applicator.

23 (b) Application for a pesticide business license or renewal shall be
24 made on a form obtained from the secretary and shall be accompanied by
25 an application fee per category in which the licensee applies, and an
26 additional fee for each uncertified individual employed by the applicant to
27 apply pesticides. The application fee per category shall be \$140 per
28 category in which the licensee applies, except that on and after July 1,
29 ~~2015-2019~~ **2018**, the application fee per category shall be \$112 per
30 category in which the licensee applies. An additional fee of \$15 shall be
31 paid for each uncertified individual employed by the applicant to apply
32 pesticides, except that on and after July 1, ~~2015-2019~~ **2018**, an additional
33 fee of \$10 shall be paid for each uncertified individual employed by the
34 applicant to apply pesticides. The application fee per category and the
35 additional fee for each uncertified employee in effect on the day preceding
36 the effective date of this act shall continue in effect until the secretary

1 adopts rules and regulations fixing a different fee under this subsection.
2 Any uncertified individual employed for a period of more than 10 days in
3 a 30-day period or for five consecutive days by a licensee to apply
4 pesticides subsequent to such application shall be reported to the secretary
5 within 30 days of such employee's hiring and the fee shall be paid at that
6 time. Each application shall also include the following:

7 (1) The business name of the person applying for such license or
8 renewal;

9 (2) if the applicant is an individual, receiver, trustee, representative,
10 agent, firm, partnership, association, corporation or other organized group
11 of persons, whether or not incorporated, the full name of each owner of the
12 firm or partnership or the names of the officers of the association,
13 corporation or group;

14 (3) the principal business address of the applicant in the state and
15 elsewhere; and

16 (4) any other information the secretary, by rules and regulations,
17 deems necessary for the administration of this act.

18 (c) The secretary may issue a pesticide business license to apply
19 pesticides in categories for which an applicant has applied if the applicant
20 files the bond, insurance, letter of credit or proof of an escrow account as
21 required under K.S.A. 2-2448, and amendments thereto, satisfies the
22 requirements of subsection (b), and pays the required fees. Such license
23 shall expire at the end of the calendar year for which it is issued unless it
24 has been revoked or suspended prior thereto. If a license is not issued as
25 applied for, the secretary shall inform the applicant in writing of the
26 reasons therefor.

27 (d) The following persons shall be exempted from the licensing
28 requirements of this act:

29 (1) State or federal personnel using pesticides or pest control services
30 while engaged in pesticide use research;

31 (2) veterinarians or physicians using pesticides as a part of their
32 professional services; and

33 (3) any person or such person's employee who applies pesticides on
34 or at premises owned, leased or operated by such person.

35 (e) Subject to the provisions of subsection (d), it is unlawful for any
36 governmental agency which has not been issued a government agency
37 registration to apply pesticides within this state. Application for
38 government agency registration shall be made on a form obtained from the
39 secretary and shall be accompanied by a fee fixed by rules and regulations
40 adopted by the secretary, except that such fee shall not exceed \$50, except
41 that on and after July 1, ~~2015-2019~~ **2018**, such fee shall not exceed \$35.
42 The governmental agency registration fee in effect on the day preceding
43 the effective date of this act shall continue in effect until the secretary

1 adopts rules and regulations fixing a different fee therefor under this
2 subsection. No fee shall be required of any township located within a
3 county which has previously applied for and received government agency
4 registration. Each application for registration shall contain information
5 including, but not limited to:

6 (1) The name of the government agency;
7 (2) the mailing address of the applicant;
8 (3) the name and mailing address of the person who heads such
9 agency and who is authorized to receive correspondence and legal papers.
10 Such person shall be: (A) The mayor or city manager for municipalities;
11 (B) the chairperson of the board of county commissioners for counties; (C)
12 the township trustee for townships; or (D) any person designated by any
13 other governmental agency; and

14 (4) any other information the secretary, by rules and regulations,
15 deems necessary for the administration of this act.

16 (f) If the secretary finds the application to be sufficient, the secretary
17 shall issue a government agency registration. The government agency is
18 not required to furnish a surety bond under this act. Such government
19 agency registration shall expire at the end of the calendar year for which it
20 is issued unless it has been revoked or suspended prior thereto. If a
21 registration is not issued as applied for, the secretary shall inform the
22 applicant in writing of the reasons therefor.

23 (g) A pesticide business license or government agency registration
24 may be renewed by meeting the same requirements as for a new license or
25 registration. Neither the pesticide business license nor the government
26 agency registration shall be transferable, except that, in the event of the
27 disability, incapacity or death of the owner, manager or legal agent of a
28 pesticide business licensee, a permit may be issued by the secretary to
29 permit the operation of such business until the expiration period of the
30 license in effect at the time of such disability, incapacity or death if the
31 applicant therefor can show that the policies and services of such business
32 will continue substantially as before, with due regard to protection of the
33 public and the environment.

34 (h) No pesticide business license may be issued to any person until
35 such person is or has in such person's employ one or more individuals who
36 are certified commercial applicators in each of the categories for which the
37 license application is made.

38 Sec. 2. K.S.A. 2013 Supp. 2-2440b is hereby amended to read as
39 follows: 2-2440b. (a) It shall be unlawful for any pesticide business
40 licensee to apply pesticides for the control of wood destroying pests,
41 structural pests, ornamental pests, turf pests or interior landscape pests
42 unless the applicator of the pesticide is a certified commercial applicator or
43 is a registered pest control technician, except that an uncertified

1 commercial applicator may apply pesticides when either a certified
2 applicator or registered pest control technician is physically present.

3 (b) Any such employee applying for a pest control technician
4 registration shall file an application on a form prescribed by the secretary.
5 Application for such registration shall be accompanied by an application
6 fee established by rules and regulations adopted by the secretary, except
7 that such fee shall not exceed \$40, except that on and after July 1, ~~2015~~
8 ~~2019~~ **2018**, such fee shall not exceed \$25, and shall be reduced, but not
9 below zero, by an amount equal to the additional fee paid under subsection
10 (b) of K.S.A. 2-2440, and amendments thereto, for such uncertified
11 individual.

12 (c) If the secretary finds the applicant qualified to be a registered pest
13 control technician after meeting the training requirements determined by
14 the secretary in rules and regulations, the secretary shall issue a pest
15 control technician registration which will expire at the end of the calendar
16 year.

17 (d) This section shall be part of and supplemental to the Kansas
18 pesticide law.

19 Sec. 3. K.S.A. 2013 Supp. 2-2443a is hereby amended to read as
20 follows: 2-2443a. An applicant for a commercial applicator's certificate
21 shall show upon written examination that the applicant possesses adequate
22 knowledge concerning the proper use and application of pesticides in the
23 categories or subcategories for which the applicant has applied. A
24 commercial applicator who holds a current certificate to apply pesticides
25 commercially in any other state or political subdivision of the United
26 States may be exempted from examination for certification in this state
27 upon approval of the secretary and payment of a \$75 fee per category,
28 unless a fee not to exceed \$75 is established in rules and regulations
29 adopted by the secretary.

30 Applicants shall submit with each application a fee per examination
31 taken, including each category, subcategory and general core examination.
32 The examination fee shall be fixed by rules and regulations adopted by the
33 secretary, except that such fee shall not exceed \$45 per examination,
34 except that on and after July 1, ~~2015-2019~~ **2018**, such fee shall not exceed
35 \$35 per examination. Applicants who fail to pass the examination may
36 reapply and take another examination upon paying another examination
37 fee, which fee shall be fixed by rules and regulations adopted by the
38 secretary, except that such fee shall not exceed \$45 per examination,
39 except that on and after July 1, ~~2015-2019~~ **2018**, such fee shall not exceed
40 \$35 per examination. The general core examination shall include, but is
41 not limited to, the following:

42 (a) The proper use of the equipment.

43 (b) The hazards that may be involved in applying the pesticides,

1 including:

- 2 (1) The effect of drift of the pesticides on adjacent and nearby lands
3 and other non-target organisms;
- 4 (2) the proper meteorological conditions for the application of
5 pesticides and the precautions to be taken with such application;
- 6 (3) the effect of the pesticides on plants or animals in the area,
7 including the possibility of damage to plants or animals or the possibility
8 of illegal pesticide residues resulting on them;
- 9 (4) the effect of the application of pesticides to wildlife in the area,
10 including aquatic life;
- 11 (5) the identity and classification of pesticides used and the effects of
12 their application in particular circumstances; and
- 13 (6) the likelihood of contamination of water or injury to persons,
14 plants, livestock, pollinating insects and vegetation.
- 15 (c) Calculating the concentration of pesticides to be used.
- 16 (d) Identification of common pests to be controlled and damages
17 caused by such pests.
- 18 (e) Protective clothing and respiratory equipment for handling and
19 application of pesticides.
- 20 (f) General precautions to be followed in the disposal of containers as
21 well as the cleaning and decontamination of the equipment which the
22 applicant proposes to use.
- 23 (g) Applicable state and federal pesticide laws and regulations.
- 24 (h) Any other subject which the secretary deems necessary.

25 Sec. 4. K.S.A. 2013 Supp. 2-2445a is hereby amended to read as
26 follows: 2-2445a. In lieu of obtaining a commercial applicator's certificate
27 under the provisions of K.S.A. 2-2441a, and amendments thereto, a private
28 applicator's certificate may be applied for by and issued to individuals
29 using restricted use pesticides for the purpose of producing any
30 agricultural commodity on property owned or rented by the individual or
31 such individual's employer, or on the property of another for no
32 compensation other than the trading of personal services between
33 producers. Such certificates shall expire on the anniversary of the
34 individual's date of birth occurring in the fifth calendar year following the
35 year of issue. No certification shall be required hereunder for individuals
36 operating under the supervision of a certified private applicator.

37 Certified private applicator certificates may be issued to individuals
38 who have paid: (a) A fee fixed by rules and regulations adopted by the
39 secretary, except that on and after July 1, ~~2015-2019~~ **2018**, such fee shall
40 not exceed \$10; and (b) who have acquired practical knowledge of pest
41 problems, proper storage, use, handling and disposal of pesticides and
42 pesticide containers, pertinent information found on the pesticide labels,
43 pesticide use safety and environmental considerations, either through

1 Kansas state university extension service educational training or through
2 individual study of educational materials available at county extension
3 offices or the secretary. The certified private applicator certificate fee in
4 effect on the day preceding the effective date of this act shall continue in
5 effect until the secretary adopts rules and regulations fixing a different fee
6 therefor under this section. Individuals shall indicate adequate knowledge
7 of the subjects enumerated herein by passing an open-book examination
8 approved by the secretary.

9 Educational materials and examination blanks shall be made available
10 at county extension offices and at places where extension educational
11 training is conducted. The examinations shall be scored by members of the
12 extension or secretary's staff. If an individual passes the examination by
13 equaling or exceeding a standard authorized by the secretary, a certified
14 private applicator's certificate shall be issued to such individual. Such staff
15 member shall send a copy of the certificate issued, together with the fee, to
16 the secretary.

17 A certified applicator who holds a current certificate to apply pesticides
18 as a certified private applicator in any other state or political subdivision of
19 the United States may be exempted from examination for private
20 applicator certification in this state upon payment of proper fees and
21 approval by the secretary.

22 Sec. 5. K.S.A. 2013 Supp. 2-3304 is hereby amended to read as
23 follows: 2-3304. (a) Any user of the chemigation process shall register and
24 obtain a chemigation user's permit before using the process.

25 (b) Registration shall consist of making application on a form
26 supplied by the secretary. Such application shall include, but not be limited to:
27

28 (1) The name of the persons to whom a permit is to be issued,
29 including an owner or operator of land on which chemigation is to be used;

30 (2) a plan for using anti-pollution devices;

31 (3) a plan for handling tail water or accumulations of water;

32 (4) the number and locations, including a legal description, of
33 wellheads which may be involved in the chemigation process and surface
34 water supply withdrawal points, not to include siphon tubes; and

35 (5) payment of fees.

36 (c) The application fee for a chemigation user's permit shall be \$75
37 plus \$15 for each additional point of diversion, except that on and after
38 July 1, ~~2015-2019~~ **2018**, a chemigation user's permit shall be \$55 plus \$10
39 for each additional point of diversion. A chemigation user's permit may be
40 renewed each year upon making an application, payment of the application
41 fee and completing the report form providing information used in
42 chemigation the previous year.

43 Sec. 6. K.S.A. 2013 Supp. 2-3306 is hereby amended to read as

1 follows: 2-3306. (a) Any individual operating chemigation equipment
2 under a chemigation user permit shall be responsible for the safe operation
3 of such chemigation equipment and any such equipment shall be
4 considered to be under the direct supervision of the chemigation user
5 permit holder.

6 (b) The secretary shall not issue a chemigation user permit to any
7 person unless such person is a certified chemigation equipment operator or
8 has in such person's employment at least one certified chemigation
9 equipment operator. A chemigation equipment operator is an individual
10 who has successfully completed an examination given by the secretary or
11 the secretary's designee. Except as provided in subsection (c), if the
12 chemigation user permit is issued to an individual, that individual must
13 have successfully completed the chemigation equipment operator
14 examination. Such examination shall include, but not be limited to, the
15 following:

- 16 (1) The proper use of anti-pollution devices;
- 17 (2) preparing the chemical solution and filling the chemical supply
18 container;
- 19 (3) calibrating of injection equipment;
- 20 (4) supervision of chemigation equipment to assure its safe operation;
- 21 (5) environmental and human hazards that may be involved in
22 chemigation;
- 23 (6) protective clothing and respiratory equipment;
- 24 (7) general precautions to be followed in disposal of containers and
25 decontamination of the equipment;
- 26 (8) handling of tail water and other accumulations of water containing
27 chemicals;
- 28 (9) information of procedures to be followed should chemicals
29 inadvertently enter the water supply source as a result of the chemigation
30 process;
- 31 (10) label information, especially chemigation instructions;
- 32 (11) applicable state and federal laws and regulations; and
- 33 (12) any other subject which the secretary deems necessary.

34 (c) The examination provided for in subsection (b) may be waived for
35 any individual who has been certified as a pesticide applicator in the
36 category of chemigation pursuant to the Kansas pesticide law.

37 (d) The chemigation equipment operator certification shall expire on
38 December 31 of the fourth calendar year after the year of issue. A
39 chemigation equipment operator certification shall be renewed for a
40 succeeding five year period upon payment of the certification fee and
41 passing the examination specified in either subsection (b) or (c).

42 (e) The fee for certification as a chemigation equipment operator or
43 for renewal of such certification shall be \$25, except that on and after July

1 1, ~~2015-2019~~ **2018**, such certification shall be \$10.

2 Sec. 7. K.S.A. 2013 Supp. 65-778 is hereby amended to read as
3 follows: 65-778. (a) Any person who engages in business as a dairy
4 manufacturing plant shall first apply for and obtain a dairy manufacturing
5 plant license from the secretary and shall pay a license fee of \$120, or
6 commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a license
7 fee of \$200.

8 (b) Any person who engages in business as a distributor of milk, milk
9 products or dairy products shall first apply for and obtain a milk distributor
10 license from the secretary and shall pay a license fee of \$120, or
11 commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a license
12 fee of \$200. No milk distributor license shall be required for a licensed
13 dairy manufacturing plant which distributes only those products which it
14 manufactures.

15 (c) Any person who engages in business as a milk hauler shall first
16 apply for and obtain a milk hauler license from the secretary and shall pay
17 a license fee of \$25 or commencing July 1, 2002, and ending June 30,
18 ~~2015-2019~~ **2018**, a license fee of \$35. As part of the application, the
19 secretary may require the applicant to be tested regarding proper
20 procedures for sampling, testing and weighing milk or cream and state
21 laws and rules and regulations.

22 (d) Any person who operates a milk or cream transfer station or milk
23 or cream receiving station shall first apply for and obtain a milk or cream
24 station license from the secretary and shall pay a license fee of \$50, or
25 commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a license
26 fee of \$100.

27 (e) Any person who engages in business as a manufacturer of single
28 service dairy containers or manufacturer of single service dairy container
29 closures shall first apply for and obtain a single service manufacturing
30 license from the secretary and shall pay a license fee of \$50, or
31 commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a license
32 fee of \$100.

33 (f) Any person who operates a milk tank truck cleaning facility shall
34 first apply for and obtain a milk tank truck cleaning facility license from
35 the secretary and shall pay a license fee of \$100.

36 (g) Any license issued under this section shall be renewed annually.

37 (h) The dairy manufacturing plant license, milk distributor license,
38 milk tank truck cleaning facility license, milk or cream station license and
39 single service manufacturing license shall expire on December 31 of the
40 year for which it was issued unless suspended or revoked by the secretary
41 pursuant to this act. The milk hauler license shall expire on June 30
42 following the date of issuance unless suspended or revoked by the
43 secretary pursuant to this act.

1 (i) No license issued under this section shall be transferable. No
2 license shall be renewed if any assessments or fees required under this act
3 are delinquent.

4 (j) Each applicant for a license or for the renewal of such license shall
5 submit an application on a form supplied by the secretary accompanied by
6 the license fee. All licenses shall be conspicuously displayed in the
7 applicant's place of business.

8 (k) The secretary is authorized and directed to reduce any license fee
9 in subsections (a) through (f) whenever the secretary determines that such
10 fee is yielding more than is necessary for administering the provisions of
11 this act. The secretary is authorized to increase any license fee in
12 subsections (a) through (f), when such license fee is necessary to produce
13 sufficient revenues for administering the provisions of this act. License
14 fees in subsections (a) through (f) shall not be increased in excess of the
15 amounts provided in this section.

16 Sec. 8. K.S.A. 2013 Supp. 65-781 is hereby amended to read as
17 follows: 65-781. The following fees for the statewide system of milk
18 inspection and regulatory services are hereby established:

19 (a) A fee of \$.01, or commencing July 1, 2002, and ending June 30,
20 ~~2015-2019~~ **2018**, a fee of \$.015 for each 100 pounds of milk produced by
21 milk producers under Kansas grade A inspection shall be paid. Each
22 producer is hereby charged with such fee which shall be paid to the milk
23 producers' cooperative, milk processor or milk distributor to whom the
24 milk is sold or delivered. Each cooperative, processor or distributor is
25 hereby charged with the duty of collecting such fees which shall be
26 remitted to the secretary.

27 (b) A fee of \$.01, or commencing July 1, 2002, and ending June 30,
28 ~~2015-2019~~ **2018**, a fee of \$.02 for each 100 pounds of packaged grade A
29 pasteurized milk or milk products sold in Kansas at retail to the final
30 consumer shall be paid. Each distributor is hereby charged with such fee
31 which shall be remitted to the secretary.

32 (c) A fee of \$.01, or commencing July 1, 2002, and ending June 30,
33 ~~2015-2019~~ **2018**, a fee of \$.02 per 100 pounds or fraction thereof of grade
34 A raw milk for pasteurization delivered to a milk processor within the state
35 of Kansas which is processed into grade A milk or grade A milk products
36 shall be paid. Each milk processor is hereby charged with such fee which
37 shall be remitted to the secretary. *This fee shall not be paid if the milk is*
38 *processed or manufactured at the dairy where such milk is produced.*

39 (d) A milk fee of \$.01, or commencing July 1, 2002, and ending June
40 30, ~~2015-2019~~ **2018**, a fee of \$.015 per 100 pounds of milk or cream for
41 manufacturing purposes produced by milk producers under Kansas
42 manufacturing grade milk inspection shall be paid. Each producer is
43 hereby charged with such fee which shall be paid to the milk producers'

1 cooperative, dairy manufacturing plant or any other person to whom the
2 milk or cream for manufacturing purposes is sold or delivered. Each
3 cooperative, dairy manufacturing plant or other person is hereby charged
4 with the duty of collecting such fees which shall be remitted to the
5 secretary.

6 (e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30,
7 ~~2015-2019~~ **2018**, a fee of \$.02 per 100 pounds of Kansas produced milk or
8 cream for manufacturing purposes or other Kansas produced milk
9 delivered to a dairy manufacturing plant shall be paid on all Kansas milk
10 used in the manufacturing of dairy products. As used in this subsection, the
11 term dairy products shall not include any frozen dairy dessert or frozen
12 dairy dessert mix. Each dairy manufacturing plant shall pay such fee
13 which shall be remitted to the secretary. *This fee shall not be paid if the*
14 *milk is processed or manufactured at the dairy where such milk is*
15 *produced.*

16 (f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or
17 commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a fee of
18 \$2 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix
19 shall be paid by the manufacturer thereof. Each manufacturer of frozen
20 dairy dessert or frozen dairy dessert mix is hereby charged with such fee
21 which shall be remitted to the secretary. Frozen dairy dessert mix which is
22 further processed into the corresponding frozen dairy dessert by the
23 manufacturer of the frozen dairy dessert mix shall not be subject to the fee
24 required by this subsection.

25 (g) A fee of \$1, or commencing July 1, 2002, and ending June 30,
26 ~~2015-2019~~ **2018**, a fee of \$2 per thousand gallons of frozen dairy dessert or
27 frozen dairy dessert mix imported for retail sale in Kansas shall be paid by
28 the milk distributor who imports these products.

29 (h) A fee of \$50 for the annual inspection of a milk tank truck as
30 required by this act. The milk transportation company that owns or leases
31 the milk tank truck shall pay such fee which shall be remitted to the
32 secretary.

33 (i) If any fee computed pursuant to subsection (a) through (e) is less
34 than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee.
35 If any fee computed pursuant to subsection (f) or (g) is less than \$7.50, a
36 minimum fee of \$7.50 shall be paid in lieu of the computed fee.

37 (j) All fees established herein shall be paid to the secretary in the
38 following manner:

39 (1) The fees established in subsections (a) and (c) through (e) shall be
40 remitted on or before the 30th day of each month for the calendar month
41 immediately preceding and shall be accompanied by a report, in the form
42 prescribed by the secretary, indicating the quantities upon which the
43 remittance is based.

1 (2) The fees established in subsections (b), (f) and (g) shall be
2 remitted on April 30, July 31, October 31 and January 31 for the three
3 calendar months immediately preceding and shall be accompanied by a
4 report, in the form prescribed by the secretary, indicating the quantities
5 upon which the remittance is based.

6 (3) The fee established in subsection (h) shall be remitted within 60
7 days from the date of inspection.

8 (k) Any person who fails to remit all or any part of the required fee or
9 to submit the required report by the date due may be assessed an additional
10 charge equal to 1% of the amount of delinquent fees for each day after the
11 date due, or \$5, whichever amount is greater.

12 (l) The secretary is hereby authorized and directed to reduce any
13 inspection fee in subsections (a) through (h) whenever the secretary
14 determines that such fee is yielding more than is necessary for
15 administering the provisions of this act. The secretary is authorized to
16 increase any inspection fee in subsections (a) through (h) when such
17 inspection fee is necessary to produce sufficient revenues for
18 administering the provisions of this act. License fees in subsections (a)
19 through (h) shall not be increased in excess of the amounts provided in this
20 section.

21 Sec. 9. K.S.A. 2013 Supp. 82a-708a is hereby amended to read as
22 follows: 82a-708a. (a) Any person may apply for a permit to appropriate
23 water to a beneficial use, notwithstanding that the application pertains to
24 the use of water by another, or upon or in connection with the lands of
25 another. Any rights to the beneficial use of water perfected under such
26 application shall attach to the lands on or in connection with which the
27 water is used and shall remain subject to the control of the owners of the
28 lands as in other cases provided by law.

29 (b) Except as otherwise provided in subsections (d), (e) and (f), each
30 application for a permit to appropriate water, except applications for
31 permits for domestic use, shall be accompanied by an application fee fixed
32 by this section for the appropriate category of acre feet in accordance with
33 the following:

34		
35	Acre Feet	Fee
36	0 to 100.....	\$200
37	101 to 320.....	\$300
38	More than 320.....	\$300 + \$20
39		for each additional 100
40		acre feet or any part thereof
41		

42 On and after July 1, ~~2015-2019~~ **2018**, the application fee shall be fixed
43 by this section for the appropriate category of acre feet in accordance with

1 the following:

2 Acre Feet	Fee
3 0 to 100.....	\$100
4 101 to 320.....	\$150
5 More than 320.....	\$150 + \$10
6	for each additional 100
7	acre feet or any part thereof

8
 9 The chief engineer shall render a decision on such permit applications
 10 within 150 days of receiving a complete application except when the
 11 application cannot be processed due to the standards established in K.A.R.
 12 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
 13 complete application, the application fee is subject to refund upon request.

14 (c) Except as otherwise provided in subsections (d), (e) and (f), each
 15 application for a permit to appropriate water for storage, except
 16 applications for permits for domestic use, shall be accompanied by an
 17 application fee fixed by this section for the appropriate category of
 18 storage-acre feet in accordance with the following:

19 Storage-Acre Feet	Fee
20 0 to 250.....	\$200
21 More than 250.....	\$200 + \$20
22	for each additional 250
23	storage-acre feet or any part thereof

24
 25 On and after July 1, ~~2015-2019~~ **2018**, the application fee shall be fixed
 26 by this section for the appropriate category of storage-acre feet in
 27 accordance with the following:

28 Storage-Acre Feet	Fee
29 0 to 250.....	\$100
30 More than 250.....	\$100 + \$10
31	for each additional 250
32	storage-acre feet or any part thereof

33
 34 The chief engineer shall render a decision on such permit applications
 35 within 150 days of receiving a complete application except when the
 36 application cannot be processed due to the standards established in K.A.R.
 37 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
 38 complete application, the application fee is subject to refund upon request.

39 (d) Each application for a term permit pursuant to K.S.A. 2013 Supp.
 40 82a-736, and amendments thereto, shall be accompanied by an application
 41 fee established by rules and regulations of the chief engineer in an amount
 42 not to exceed \$400 for the five-year period covered by the permit.

43 (e) For any application for a permit to appropriate water, except

1 applications for permits for domestic use, which proposes to appropriate
 2 by both direct flow and storage, the fee charged shall be the fee under
 3 subsection (b) or subsection (c), whichever is larger, but not both fees.

4 (f) Each application for a permit to appropriate water for water power
 5 or dewatering purposes shall be accompanied by an application fee of
 6 \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the
 7 diversion rate requested in the application for the proposed project.

8 (g) All fees collected by the chief engineer pursuant to this section
 9 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
 10 amendments thereto.

11 Sec. 10. K.S.A. 2013 Supp. 82a-708b is hereby amended to read as
 12 follows: 82a-708b. (a) Any owner of a water right may change the place of
 13 use, the point of diversion or the use made of the water, without losing
 14 priority of right, provided such owner shall: (1) Apply in writing to the
 15 chief engineer for approval of any proposed change; (2) demonstrate to the
 16 chief engineer that any proposed change is reasonable and will not impair
 17 existing rights; (3) demonstrate to the chief engineer that any proposed
 18 change relates to the same local source of supply as that to which the water
 19 right relates; and (4) receive the approval of the chief engineer with
 20 respect to any proposed change. The chief engineer shall approve or reject
 21 the application for change in accordance with the provisions and
 22 procedures prescribed for processing original applications for permission
 23 to appropriate water. If the chief engineer disapproves the application for
 24 change, the rights, priorities and duties of the applicant shall remain
 25 unchanged. Any person aggrieved by an order or decision by the chief
 26 engineer relating to an application for change may petition for review
 27 thereof in accordance with the provisions of K.S.A. 2013 Supp. 82a-1901,
 28 and amendments thereto.

29 (b) Each application to change the place of use, the point of diversion
 30 or the use made of the water under this section shall be accompanied by
 31 the application fee set forth in the schedule below:

- | | |
|--|-------|
| 32 (1) Application to change a point of diversion 300 | |
| 33 feet or less | \$100 |
| 34 (2) Application to change a point of diversion more | |
| 35 than 300 feet | 200 |
| 36 (3) Application to change the place of use | 200 |
| 37 (4) Application to change the use made of water | 300 |

38
 39 On and after July 1, ~~2015-2019~~ **2018**, the application fee shall be set
 40 forth in the schedule below:

- | | |
|--|------|
| 41 (1) Application to change a point of diversion 300 | |
| 42 feet or less | \$50 |
| 43 (2) Application to change a point of diversion more | |

1	than 300 feet	100
2	(3) Application to change the place of use	100
3	(4) Application to change the use made of the water	150

4
5 The chief engineer shall render a decision on such permit applications
6 within 150 days of receiving a complete application except when the
7 application cannot be processed due to the standards established in K.A.R.
8 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
9 complete application, the application fee is subject to refund upon request.

10 (c) All fees collected by the chief engineer pursuant to this section
11 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
12 amendments thereto.

13 Sec. 11. K.S.A. 2013 Supp. 82a-708c is hereby amended to read as
14 follows: 82a-708c. (a) A term permit is a permit to appropriate water for a
15 limited specified period of time in excess of six months. At the end of the
16 specified time, or any authorized extension approved by the chief engineer,
17 the permit shall be automatically dismissed, and any priority it may have
18 had shall be forfeited. No water right shall be perfected pursuant to a term
19 permit.

20 (b) Each application for a term permit to appropriate water shall be
21 made on a form prescribed by the chief engineer and shall be accompanied
22 by an application fee fixed by this section for the appropriate category of
23 acre feet in accordance with the following:

24	Acre Feet	Fee
25	0 to 100.....	\$200
26	101 to 320.....	\$300
27	More than 320.....	\$300 + \$20
28		for each additional 100
29		acre feet or any part thereof

30
31 On and after July 1, ~~2015-2019~~ **2018**, the application fee shall be set
32 forth in the schedule below:

33	Acre Feet	Fee
34	0 to 100.....	\$100
35	101 to 320.....	\$100
36	More than 320.....	\$150 + \$10
37		for each additional 100
38		acre feet or any part thereof

39
40 The chief engineer shall render a decision on such term permit
41 applications within 150 days of receiving a complete application except
42 when the application cannot be processed due to the standards established
43 in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of

1 receipt of a complete application, the application fee is subject to refund
 2 upon request.

3 (c) Each application for a term permit to appropriate water for
 4 storage, except applications for permits for domestic use, shall be
 5 accompanied by an application fee fixed by this section for the appropriate
 6 category of storage-acre feet in accordance with the following:

7 Storage-Acre Feet	Fee
8 0 to 250.....	\$200
9 More than 250.....	\$200 + \$20
10	<i>for each additional 250</i>
11 <i>acre feet or any part thereof</i>	

12
 13 On and after July 1, ~~2015-2019~~ **2018**, the application fee shall be set
 14 forth in the schedule below:

15 Storage-Acre Feet	Fee
16 0 to 250.....	\$100
17 More than 250.....	\$100 + \$10
18	<i>for each additional 250</i>
19	<i>acre feet or any part thereof</i>

20
 21 The chief engineer shall render a decision on such term permit
 22 applications within 150 days of receiving a complete application except
 23 when the application cannot be processed due to the standards established
 24 in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of
 25 receipt of a complete application, the application fee is subject to refund
 26 upon request.

27 (d) Each application for a term permit pursuant to K.S.A. 2013 Supp.
 28 82a-736, and amendments thereto, shall be accompanied by an application
 29 fee established by rules and regulations adopted by the chief engineer in an
 30 amount not to exceed \$400 for the five-year period covered by the permit.

31 (e) Notwithstanding the provisions of K.S.A. 82a-714, and
 32 amendments thereto, the applicant is not required to file a notice of
 33 completion of diversion works nor pay a field inspection fee. The chief
 34 engineer shall not conduct a field inspection of the diversion works
 35 required by statute for purposes of certification nor issue a certificate of
 36 appropriation for a term permit.

37 (f) A request to extend the term of a term permit in accordance with
 38 the rules and regulations adopted by the chief engineer shall be
 39 accompanied by the same filing fee applicable to other requests for
 40 extensions of time as set forth in K.S.A. 82a-714, and amendments thereto.

41 (g) An application to change the place of use, point of diversion, use
 42 made of water, or any combination thereof, pursuant to K.S.A. 82a-708b,
 43 and amendments thereto, shall not be approved for a term permit.

1 (h) The chief engineer shall adopt rules and regulations to effectuate
2 and administer the provisions of this section.

3 Sec. 12. K.S.A. 2013 Supp. 82a-714 is hereby amended to read as
4 follows: 82a-714. (a) Upon the completion of the construction of the
5 works and the actual application of water to the proposed beneficial use
6 within the time allowed, the applicant shall notify the chief engineer to that
7 effect. The chief engineer or the chief engineer's duly authorized
8 representative shall then examine and inspect the appropriation diversion
9 works and, if it is determined that the appropriation diversion works have
10 been completed and the appropriation right perfected in conformity with
11 the approved application and plans, the chief engineer shall issue a
12 certificate of appropriation in duplicate. The original of such certificate
13 shall be sent to the owner and shall be recorded with the register of deeds
14 in the county or counties wherein the point of diversion is located, as are
15 other instruments affecting real estate, and the duplicate shall be made a
16 matter of record in the office of the chief engineer.

17 (b) Not later than 60 days before the expiration of the time allowed in
18 the permit to complete the construction of the appropriation diversion
19 works or the time allowed in the permit to actually apply water to the
20 proposed beneficial use, the chief engineer shall notify the permit holder
21 by certified mail that any request for extension of such time must be filed
22 with the chief engineer before the expiration of the time allowed in the
23 permit.

24 (c) Unless the applicant requests an extension or the certificate has
25 not been issued due to the applicant's failure to comply with reasonable
26 requests for information or to allow the opportunity to examine and inspect
27 the appropriation diversion works, as necessary for certification, the chief
28 engineer shall certify an appropriation:

29 (1) Before July 1, 2004, if the time allowed in the permit to perfect
30 the water right expired before July 1, 1999, except in those cases in which
31 abandonment proceedings pursuant to K.S.A. 82a-718, and amendments
32 thereto, are pending on July 1, 2004;

33 (2) before July 1, 2006, in such cases in which an abandonment
34 proceeding was pending pursuant to K.S.A. 82a-718, and amendments
35 thereto, on July 1, 2004; or

36 (3) not later than five years after the date the applicant notifies the
37 chief engineer of the completion of construction of the works and the
38 actual application of water to the proposed beneficial use within the time
39 allowed, in all other cases.

40 If the chief engineer fails to issue a certificate within the time provided
41 by this subsection, the applicant may request review, pursuant to K.S.A.
42 2013 Supp. 82a-1901, and amendments thereto, of the chief engineer's
43 failure to act.

1 (d) Except for works constructed to appropriate water for domestic
2 use, each notification to the chief engineer under subsection (a) shall be
3 accompanied by a field inspection fee of \$400, or on and after July 1, ~~2015~~
4 ~~2019~~ **2018**, a fee of \$200, except that for applications filed on or after July
5 1, 2009, for works constructed for sediment control use and for
6 evaporation from a groundwater pit for industrial use shall be
7 accompanied by a field inspection fee of \$200. Failure to pay the field
8 inspection fee, after reasonable notice by the chief engineer of such failure,
9 shall result in the permit to appropriate water being revoked, forfeiture of
10 the priority date and revocation of any appropriation right that may exist.

11 (e) A request for an extension of time to: (1) Complete the diversion
12 works; or (2) perfect the water right, shall be accompanied by a fee of \$50,
13 or commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a fee
14 of \$100.

15 (f) A request to reinstate a water right or a permit to appropriate water
16 which has been dismissed shall be filed with the chief engineer within 60
17 days of the date dismissed and shall be accompanied by a fee of \$100, or
18 commencing July 1, 2002, and ending June 30, ~~2015-2019~~ **2018**, a fee of
19 \$200.

20 (g) All fees collected by the chief engineer pursuant to this section
21 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
22 amendments thereto.

23 Sec. 13. K.S.A. 2013 Supp. 82a-727 is hereby amended to read as
24 follows: 82a-727. (a) Subject to existing water rights and the principle of
25 beneficial use, the chief engineer may grant upon application made
26 therefor temporary permits and extensions thereof to appropriate water in
27 any case where the public interest in such water will not be unreasonably
28 or prejudicially affected, except that the chief engineer shall not grant any
29 such permit to appropriate fresh water in any case where other waters are
30 available for the proposed use and the use thereof is technologically and
31 economically feasible. No such temporary permit or any extension thereof
32 shall be granted for a period of time in excess of six months. Each
33 application submitted for a temporary permit or extension thereof shall be
34 accompanied by an application fee of \$200, or on and after July 1, ~~2015-~~
35 ~~2019~~ **2018**, a fee of \$100.

36 (b) The chief engineer shall adopt rules and regulations to effectuate
37 and administer the provisions of this section.

38 (c) Nothing in this section shall be deemed to vest in the holder of
39 any permit granted pursuant to provisions of this section any permanent
40 right to appropriate water except as is provided by such permit.

41 (d) All fees collected by the chief engineer pursuant to this section
42 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
43 amendments thereto.

1 Sec. 14. K.S.A. 2013 Supp. 2-2440, 2-2440b, 2-2443a, 2-2445a, 2-
2 3304, 2-3306, 65-778, 65-781, 82a-708a, 82a-708b, 82a-708c, 82a-714
3 and 82a-727 are hereby repealed.

4 Sec. 15. This act shall take effect and be in force from and after its
5 publication in the statute book.