

SENATE BILL No. 27

By Committee on Federal and State Affairs

1-13

1 AN ACT concerning health and environment; relating to the Kansas
2 storage tank act; increasing the limit of certain liability amounts;
3 reimbursements; extending the existence of the underground fund,
4 aboveground fund, UST redevelopment fund and the UST
5 redevelopment fund compensation advisory board; amending K.S.A.
6 65-34,105, 65-34,118, 65-34,119, 65-34,120, 65-34,123, 65-34,128, 65-
7 34,134 and 65-34,139 and repealing the existing sections.
8

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

10 Section 1. K.S.A. 65-34,105 is hereby amended to read as follows:
11 65-34,105. (a) The secretary is authorized and directed to adopt rules and
12 regulations necessary to administer and enforce the provisions of this act.
13 Any rules and regulations so adopted shall be reasonably necessary to
14 preserve, protect and maintain the waters and other natural resources of
15 this state, and reasonably necessary to provide for the prompt investigation
16 and cleanup of sites contaminated by a release from a storage tank. In
17 addition, any rules and regulations or portions thereof ~~which~~ *that* pertain to
18 underground storage tanks or the owners and operators thereof shall be
19 adopted for the purpose of enabling the secretary and the department to
20 implement the federal act, and such rules and regulations so adopted shall
21 be consistent with the federal act. Consistent with these purposes, the
22 secretary shall adopt rules and regulations:

23 (1) Establishing performance standards for underground storage tanks
24 first brought into use on or after May 18, 1989. The performance standards
25 for new underground storage tanks shall include, but are not limited to,
26 design, construction, installation, release detection and product
27 compatibility standards;

28 (2) establishing performance standards for aboveground storage tanks
29 brought into use after May 18, 1989. The performance standards shall not
30 exceed those performance standards adopted by the administrator of the
31 U.S. environmental protection agency and for new aboveground storage
32 tanks shall include, but are not limited to, design, construction, installation,
33 release detection and product compatibility standards;

34 (3) establishing performance standards for the inground repair of
35 underground storage tanks. The performance standards shall include, but
36 are not limited to, specifying under what circumstances an underground

1 storage tank may be repaired and specifying design, construction,
2 installation, release detection, product compatibility standards and
3 warranty;

4 (4) establishing performance standards for maintaining spill and
5 overfill equipment, leak detection systems and comparable systems or
6 methods designed to prevent or identify releases. In addition, the secretary
7 shall establish standards for maintaining records and reporting leak
8 detection monitoring, inventory control and tank testing or comparable
9 systems;

10 (5) establishing requirements for reporting a release and for reporting
11 and taking corrective action in response to a release;

12 (6) establishing requirements for maintaining evidence of financial
13 responsibility to be met by owners and operators of underground storage
14 tanks;

15 (7) establishing requirements for the closure of storage tanks
16 including the removal and disposal of storage tanks and regulated
17 substance residues contained therein to prevent future releases of regulated
18 substances into the environment;

19 (8) for the approval of tank tightness testing methods, including
20 determination of the qualifications of persons performing or offering to
21 perform such testing;

22 (9) establishing site selection and cleanup criteria regarding
23 corrective actions related to a release, ~~which~~. *Such* criteria *shall* address
24 the following: The physical and chemical characteristics of the released
25 substance, including toxicity, persistence and potential for migration; the
26 hydrogeologic characteristics of the release site and the surrounding land;
27 the proximity, quality and current and future uses of groundwater; an
28 exposure assessment; the proximity, quality and current and future use of
29 surface water; and the level of the released substance allowed to remain on
30 the facility following cleanup;

31 (10) prescribing fees for the following with regard to storage tanks:
32 Registration, issuance of permits, approval of plans for new installations
33 and conducting of inspections. The fees shall be established in such
34 amounts that revenue from such fees does not exceed the amount of
35 revenue required for the purposes provided by ~~subsection (b) of K.S.A. 65-~~
36 ~~34,128(b)~~. All fees for underground storage tanks shall be deposited in the
37 ~~state general fund and all fees for aboveground storage tanks collected~~
38 ~~pursuant to this subsection~~ shall be deposited in the storage tank fee fund;

39 (11) for determining the qualifications, adequacy of performance and
40 financial responsibility of persons desiring to be licensed as underground
41 storage tank installers or contractors. In adopting rules and regulations, the
42 secretary may specify classes of specialized activities, such as the
43 installation of corrosion protection devices or inground relining of

1 underground storage tanks, and may require persons wishing to engage in
2 such activities to demonstrate additional qualifications to perform these
3 services;

4 (12) prescribing fees for the issuance of licenses to underground
5 storage tank installers and contractors. The fees shall be established in
6 such amounts that revenue from such fees does not exceed the amount of
7 revenue determined by the secretary to be required for administration of
8 the provisions of K.S.A. 65-34,110 and amendments thereto; and

9 (13) adopting schedules requiring the retrofitting of underground
10 storage tanks in existence on May 18, 1989, and aboveground storage
11 tanks in existence on July 1, 1992, and for the retirement from service of
12 underground storage tanks placed in service prior to May 18, 1989, and
13 aboveground storage tanks placed in service prior to July 1, 1992. Such
14 schedules shall be based on the age and location of the storage tank and
15 the type of substance stored. Such retrofitting shall include secondary
16 containment, corrosion protection, linings, leak detection equipment and
17 spill and overflow equipment.

18 (b) In adopting rules and regulations under this section, the secretary
19 shall take notice of rules and regulations pertaining to fire prevention and
20 safety adopted by the state fire marshal pursuant to ~~subsection (a)(1) of~~
21 K.S.A. 31-133(a)(1), and amendments thereto.

22 (c) Nothing in this section shall interfere with the right of a city or
23 county having authority to adopt a building or fire code from imposing
24 requirements more stringent than those adopted by the secretary pursuant
25 to subsections (a)(1), (2), (3), (7) and (13), or affect the exercise of powers
26 by cities, counties and townships regarding the location of storage tanks
27 and the visual compatibility of aboveground storage tanks with
28 surrounding property.

29 Sec. 2. K.S.A. 65-34,118 is hereby amended to read as follows: 65-
30 34,118. (a) Whenever the secretary has reason to believe that there is or
31 has been a release into the environment from a petroleum storage tank and
32 has reason to believe that such release poses a danger to human health or
33 the environment, the secretary shall obtain corrective action for such
34 release from the owner or operator, or both, or from any past owner or
35 operator who has contributed to such release. Such corrective action shall
36 be performed in accordance with a plan approved by the secretary. Upon
37 approval of such plan, the owner or operator shall obtain and submit to the
38 secretary at least three bids from persons qualified to perform the
39 corrective action except that, the secretary may waive this requirement
40 upon a showing that the owner or operator has made a good faith effort but
41 has not been able to obtain three bids from qualified bidders.

42 (b) If the owner or operator is unable or unwilling to perform
43 corrective action as provided for in subsection (a) or no owner or operator

1 can be found, the secretary may undertake appropriate corrective action
2 utilizing funds from the underground fund, if the release was from an
3 underground petroleum storage tank, or from the aboveground fund, if the
4 release was from an aboveground petroleum storage tank. Costs incurred
5 by the secretary in taking a corrective action, including administrative and
6 legal expenses, are recoverable from the owner or operator and may be
7 recovered in a civil action in district court brought by the secretary.
8 Corrective action costs recovered under this section shall be deposited in
9 the underground fund, if the release was from an underground petroleum
10 storage tank, or ~~from~~ *in* the aboveground fund, if the release was from an
11 aboveground petroleum storage tank. Corrective action taken by the
12 secretary under this subsection need not be completed in order to seek
13 recovery of corrective action costs, and an action to recover such costs
14 may be commenced at any stage of a corrective action.

15 (c) An owner or operator shall be liable for all costs of corrective
16 action incurred by the state of Kansas as a result of a release from a
17 petroleum storage tank, unless the owner or operator, or both, enter into a
18 consent agreement with the secretary in the name of the state within a
19 reasonable period of time, ~~which~~. *Such* time period may be specified by
20 ~~rule rules and regulation regulations~~. At a minimum, the owner or
21 operator, or both, must agree that:

22 (1) The owner or operator shall be liable for the appropriate amounts
23 pursuant to K.S.A. 65-34,119, and amendments thereto;

24 (2) the state of Kansas and the respective fund are relieved of all
25 liability to an owner or operator for any loss of business, damages and
26 taking of property associated with the corrective action;

27 (3) the department or its contractors may enter upon the property of
28 the owner or operator, at such time and in such manner as deemed
29 necessary, to monitor and provide oversight for the necessary corrective
30 action to protect human health and the environment;

31 (4) the owner or operator shall be fully responsible for removal,
32 replacement or retrofitting of petroleum storage tanks and the cost thereof
33 shall not be reimbursable from the respective fund;

34 (5) the owner or operator shall effectuate corrective action according
35 to a plan approved by the secretary pursuant to subsection (a);

36 (6) the liability of the state and the respective fund shall not exceed
37 ~~\$1,000,000~~ *\$2,000,000*, less the deductible amount, for any release from a
38 petroleum storage tank; and

39 (7) such other provisions as are deemed appropriate by the secretary
40 to ensure adequate protection of human health and the environment.

41 (d) For purposes of this act, corrective action costs shall include the
42 actual costs incurred for the following:

43 (1) Removal of petroleum products from petroleum storage tanks,

1 surface waters, groundwater or soil;

2 (2) investigation and assessment of contamination caused by a release
3 from a petroleum storage tank;

4 (3) preparation of corrective action plans approved by the secretary;

5 (4) removal of contaminated soils;

6 (5) soil treatment and disposal;

7 (6) environmental monitoring;

8 (7) lease, purchase and maintenance of corrective action equipment;

9 (8) restoration of a private or public potable water supply, where
10 possible, or replacement thereof, if necessary; and

11 (9) other costs identified by the secretary as necessary for proper
12 investigation, corrective action planning and corrective action activities to
13 meet the requirements of this act.

14 Sec. 3. K.S.A. 65-34,119 is hereby amended to read as follows: 65-
15 34,119. (a) (1) Subject to the provisions of subsection (b), an owner or
16 operator is entitled to reimbursement of reasonable costs of corrective
17 action taken in response to a release from a petroleum storage tank if:

18 ~~(1)-(A)~~ The owner or operator is not the United States government or
19 any of its agencies;

20 ~~(2)-(B)~~ the owner or operator is in substantial compliance, as
21 provided in subsections (e) and (f);

22 ~~(3)-(C)~~ the owner or operator undertakes corrective action, either
23 through personnel of the owner or operator or through response action
24 contractors or subcontractors; and

25 ~~(4)-(D)~~ the corrective action is not in response to a release from an
26 aboveground storage tank described in K.S.A. 65-34,103(g) or (h), and
27 amendments thereto.

28 (2) If the release is from an underground petroleum storage tank,
29 reimbursement shall be from the underground fund and, if the release is
30 from an aboveground petroleum storage tank, reimbursement shall be from
31 the aboveground fund.

32 (b) Reimbursement pursuant to subsection (a) is subject to the
33 following provisions:

34 (1) Except as provided in subsections (g) and (h), the owner or
35 operator shall be liable for the first costs of corrective action taken in
36 response to a release from any petroleum storage tank in an amount equal
37 to \$3,000 plus \$500 for each such tank owned or operated by the owner or
38 operator at the site of the release or \$100,000, whichever is less. The first
39 costs of corrective actions will be waived for any site where petroleum
40 contamination is discovered and reported during the replacement of a
41 single-wall underground storage tank from July 1, 2015, to June 30, ~~2020~~
42 2030, if such single-wall underground storage tank system is replaced with
43 a secondary containment system in accordance with provisions of K.S.A.

1 65-34,138, and amendments thereto;

2 (2) the owner or operator ~~must~~ *shall* submit to and receive from the
3 secretary approval of the proposed corrective action plan, together with
4 projected costs of the corrective action;

5 (3) the secretary may, in the secretary's discretion, determine those
6 costs ~~which~~ *that* are allowable as corrective action costs and those ~~which~~
7 *that* are attributable or ancillary to removal, replacement or retrofitting of
8 storage tanks;

9 (4) the owner or operator, or agents thereof, shall keep and preserve
10 suitable records demonstrating compliance with the approved corrective
11 action plan and all invoices and financial records associated with costs for
12 which reimbursement will be requested;

13 (5) within 30 days of receipt of a complete corrective action plan, or
14 as soon as practicable thereafter, the secretary shall make a determination
15 and provide written notice as to whether the owner or operator responsible
16 for corrective action is eligible or ineligible for reimbursement of
17 corrective action costs and, should the secretary determine the owner or
18 operator is ineligible, the secretary shall include in the written notice an
19 explanation setting forth in detail the reasons for the determination;

20 (6) the owner or operator shall submit to the secretary a written notice
21 that corrective action has been completed within 30 days of completing
22 corrective action;

23 (7) no later than 30 days from the submission of the notice as
24 required by subsection (b)(6), the owner or operator must submit an
25 application for reimbursement of corrective action costs in accordance
26 with criteria established by the secretary, and the application for
27 reimbursement must include the total amount of the corrective action costs
28 and the amount of reimbursement sought. In no case shall the total amount
29 of reimbursement exceed the lesser of the actual costs of the corrective
30 action or the amount of the lowest bid submitted pursuant to K.S.A. 65-
31 34,118, and amendments thereto, and approved by the secretary, less the
32 appropriate deductible amount;

33 (8) interim payments shall be made to an owner or operator in
34 accordance with the plan approved by the secretary pursuant to K.S.A. 65-
35 34,118, and amendments thereto, except that the secretary, for good cause
36 shown, may refuse to make interim payments or withhold the final
37 payment until completion of the corrective action;

38 (9) the owner or operator shall be fully responsible for removal,
39 replacement or retrofitting of petroleum storage tanks and the cost thereof,
40 and costs attributable or ancillary thereto, shall not be reimbursable from
41 the respective fund;

42 (10) the owner or operator shall provide evidence satisfactory to the
43 secretary that corrective action costs equal to the appropriate deductible

1 amount have been paid by the owner or operator, and such costs shall not
2 be reimbursed to the owner or operator;

3 (11) with regard to an underground petroleum storage tank, the owner
4 or operator submits to the secretary proof, satisfactory to the secretary,
5 that: (A) Such owner or operator is unable to satisfy the criteria for self-
6 insurance under the federal act; or (B) such owner or operator is able to
7 satisfy the criteria for self-insurance under the federal act but the release is
8 from an underground petroleum storage tank not located at a facility
9 engaged in production or refining of petroleum;

10 (12) with regard to an aboveground petroleum storage tank, the
11 owner or operator submits to the secretary proof, satisfactory to the
12 secretary, that the release is from an aboveground petroleum storage tank
13 not located at a facility engaged in production or refining of petroleum;
14 and

15 (13) the owner or operator shall be liable for all costs ~~which~~ *that* are
16 paid by or for which the owner or operator is entitled to reimbursement
17 from insurance coverage, warranty coverage or any other source.

18 (c) For the purpose of determining an owner's or operator's eligibility
19 for reimbursement and the applicable deductible of such owner or
20 operator, the secretary shall consider all owners and operators owned or
21 controlled by the same interests to be a single owner or operator, except
22 that each state agency to which moneys are appropriated shall be
23 considered individually as an owner or operator for such purpose.

24 (d) Notwithstanding the provisions of K.S.A. 65-34,118(c), and
25 amendments thereto, should the secretary find that any of the following
26 situations exist, any or all owners or operators shall, in the discretion of the
27 secretary, be liable for 100% of costs associated with corrective action
28 necessary to protect health or the environment, if:

29 (1) The release was due to willful or wanton actions by the owner or
30 operator;

31 (2) the owner or operator is in arrears for moneys owed, other than
32 environmental assurance fees, to either the underground fund or the
33 aboveground fund;

34 (3) the release was from a tank not registered with the department;

35 (4) the owner or operator fails to comply with any provision of the
36 agreement specified in K.S.A. 65-34,118(c), and amendments thereto;

37 (5) the owner or operator moves in any way to obstruct the efforts of
38 the department or its contractors to investigate the presence or effects of a
39 release or to effectuate corrective action;

40 (6) the owner or operator is not in substantial compliance with any
41 provision of this act or rules and regulations promulgated hereunder; or

42 (7) the owner or operator allowed, failed to report or failed to take
43 corrective action in response to such release, knowing or having reason to

1 know of such release.

2 (e) Except as otherwise provided in subsections (f) and (g), an owner
3 or operator is in substantial compliance with this act and the rules and
4 regulations adopted hereunder, if:

5 (1) Each petroleum storage tank owned or operated by such owner or
6 operator has been registered with the secretary, in accordance with the
7 applicable laws of this state and any rules and regulations adopted
8 thereunder;

9 (2) the owner or operator has entered into an agreement with the
10 secretary, as provided in K.S.A. 65-34,118(c), and amendments thereto;

11 (3) the owner or operator has complied with any applicable financial
12 responsibility requirements imposed by the Kansas storage tank act and
13 the rules and regulations adopted thereunder; and

14 (4) the owner or operator has otherwise made a good faith effort to
15 comply with the federal act if applicable, this act, any other law of this
16 state regulating petroleum storage tanks and all applicable rules and
17 regulations adopted under any of them.

18 (f) An owner or operator shall be deemed to be in substantial
19 compliance with this act with respect to the following tanks if such owner
20 or operator has notified the department, on forms provided by the
21 department, of the tank's existence, including age, size, type, location,
22 associated equipment and uses:

23 (1) Any farm or residential tank of 1,100 gallons or less capacity used
24 for storing motor fuel for noncommercial purposes;

25 (2) any aboveground tank of less than 660 gallons capacity; and

26 (3) any tank used for storing heating oil for consumptive use on the
27 single family residential premise where stored.

28 (g) (1) Except as provided by ~~subsection (g)~~ *paragraph* (2), a person
29 who owns property where a petroleum storage tank is located shall not be
30 required to register such tank to be eligible for reimbursement from the
31 respective fund of all costs of any necessary corrective action taken in
32 response to a release from such tank and shall not be subject to the
33 provisions of subsection (b)(1) if such person has at no time placed
34 petroleum in such tank or withdrawn petroleum from such tank and such
35 person:

36 (A) Submitted a corrective action plan prior to July 1, 1990, with
37 respect to an underground petroleum storage tank, or prior to July 1, 1993,
38 with respect to an aboveground petroleum storage tank;

39 (B) acquired such tank before December 22, 1988; or

40 (C) acquired such tank by intestate succession or testamentary
41 disposition.

42 (2) A person shall not be eligible for reimbursement under ~~subsection~~
43 ~~(g)~~ *paragraph* (1) unless the owner or operator of the tank is unable or

1 unwilling to perform corrective action or cannot be found, in which case
2 the secretary may recover all reimbursement paid, and any related
3 administrative and legal expenses, from the owner or operator as provided
4 by K.S.A. 65-34,118(b), and amendments thereto.

5 (h) An owner or operator shall be entitled, upon written notification
6 to the secretary, to elect between the deductible provided by this section
7 before July 1, 1992, and the deductible provided by this section on and
8 after July 1, 1992, with respect to costs of corrective action taken on or
9 after April 1, 1990, if such owner or operator has applied before July 1,
10 1992, for reimbursement of such costs from the respective fund. If an
11 owner or operator or former owner or operator has paid a deductible that is
12 greater than the deductible provided by this section on and after July 1,
13 1992, such owner or operator or former owner or operator may apply to
14 the secretary for a refund of the difference in such deductibles. If the
15 owner or operator or former owner or operator has died or no longer
16 exists, no such refund shall be paid.

17 Sec. 4. K.S.A. 65-34,120 is hereby amended to read as follows: 65-
18 34,120. (a) Nothing in this act shall establish or create any liability or
19 responsibility on the part of the secretary, the department or its agents or
20 employees; or the state of Kansas to pay any corrective action costs from
21 any source other than the respective fund created by this act.

22 (b) In no event shall the underground fund be liable for the payment
23 of corrective action costs in an amount in excess of the following, less any
24 applicable deductible amounts of the owner or operator:

25 (1) For costs incurred in response to any one release from an
26 underground petroleum storage tank, ~~\$1,000,000~~ \$2,000,000;

27 (2) ~~subject to the provisions of subsection (a)(4),~~ for an owner or
28 operator of 100 or fewer underground petroleum storage tanks, an annual
29 aggregate of \$1,000,000; and

30 (3) ~~subject to the provisions of subsection (a)(4),~~ for an owner or
31 operator of more than 100 underground petroleum storage tanks, an annual
32 aggregate of \$2,000,000.

33 (c) In no event shall the aboveground fund be liable for the payment
34 of corrective action costs in an amount in excess of the following, less the
35 deductible amounts of the owner or operator:

36 (1) For costs incurred in response to any one release from an
37 aboveground petroleum storage tank, ~~\$1,000,000~~ \$2,000,000;

38 (2) for an owner or operator of 100 or fewer aboveground petroleum
39 storage tanks, an annual aggregate of \$1,000,000; and

40 (3) for an owner or operator of more than 100 aboveground
41 petroleum storage tanks, an annual aggregate of \$2,000,000.

42 (d) This act is intended to assist an owner or operator only to the
43 extent provided for in this act, and it is in no way intended to relieve the

1 owner or operator of any liability that cannot be satisfied by the provisions
2 of this act.

3 (e) Neither the secretary nor the state of Kansas shall have any
4 liability or responsibility to make any payments for corrective action if the
5 respective fund created herein is insufficient to do so. In the event the
6 respective fund is insufficient to make the payments at the time the claim
7 is filed, such claims shall be paid in the order of filing at such time as
8 moneys are paid into the respective fund.

9 (f) No common-law liability, and no statutory liability ~~which~~ that is
10 provided in a statute other than in this act, for damages resulting from a
11 release from a petroleum storage tank is affected by this act. The authority,
12 power and remedies provided in this act are in addition to any authority,
13 power or remedy provided in any statute other than a section of this act or
14 provided at common law.

15 (g) If a person conducts a corrective action activity in response to a
16 release from a petroleum storage tank, whether or not the person files a
17 claim against the respective fund under this act, the claim and corrective
18 action activity conducted are not evidence of liability or an admission of
19 liability for any potential or actual environmental pollution or third-party
20 claim.

21 Sec. 5. K.S.A. 65-34,123 is hereby amended to read as follows: 65-
22 34,123. The underground fund and the aboveground fund shall be and are
23 hereby abolished on July 1, ~~2024~~ 2034.

24 Sec. 6. K.S.A. 65-34,128 is hereby amended to read as follows: 65-
25 34,128. (a) There is hereby established as a segregated fund in the state
26 treasury the storage tank fee fund. Revenue from the following sources
27 shall be deposited in the state treasury and credited to the fund:

28 (1) Moneys collected from fees for registration of ~~aboveground~~
29 storage tanks, issuance of storage tank permits, approval of plans for new
30 storage tank installations and conducting of storage tank inspections;

31 (2) any moneys received by the secretary in the form of gifts, grants,
32 reimbursements or appropriations from any source intended to be used for
33 the purposes of the fund; and

34 (3) interest attributable to investment of moneys in the fund.

35 (b) Moneys in the storage tank fee fund shall be expended only for:

36 (1) Enforcement of storage tank performance standards and
37 registration requirements;

38 (2) programs intended to prevent releases from storage tanks; and

39 (3) administration of the provisions of the Kansas storage tank act.

40 (c) On or before the 10th of each month, the director of accounts and
41 reports shall transfer from the state general fund to the storage tank fee
42 fund interest earnings based on:

43 (1) The average daily balance of moneys in the storage tank fee fund

1 for the preceding month; and

2 (2) the net earnings rate of the pooled money investment portfolio for
3 the preceding month.

4 (d) All expenditures from the storage tank fee fund shall be made in
5 accordance with appropriation acts upon warrants of the director of
6 accounts and reports issued pursuant to vouchers approved by the
7 secretary for the purposes set forth in this section.

8 (e) This section shall be a part of and supplemental to the Kansas
9 storage tank act.

10 Sec. 7. K.S.A. 65-34,134 is hereby amended to read as follows: 65-
11 34,134. The UST redevelopment fund compensation advisory board and
12 the UST redevelopment fund shall be and are hereby abolished on July 1,
13 ~~2024~~ 2032. At the time of such abolishment, remaining funds shall be
14 deposited in the underground fund.

15 Sec. 8. K.S.A. 65-34,139 is hereby amended to read as follows: 65-
16 34,139. (a) The secretary may provide for the reimbursement to eligible
17 owners of underground storage tanks in accordance with the provisions of
18 this section up to \$3,000,000 per state fiscal year and subject to the
19 availability of moneys in the UST redevelopment fund. An owner of an
20 underground storage tank shall be eligible for reimbursement under this
21 section if the:

22 (1) Underground storage tank system is used for the storage of
23 petroleum products for resale and is subject to the environmental
24 assurance fee in accordance with provisions of K.S.A. 65-34,117, and
25 amendments thereto;

26 (2) owner has been approved by the secretary and is not the United
27 States government or any federal agency;

28 (3) owner replaces all components of a single-wall storage tank
29 system with a secondary containment system that complies with K.S.A.
30 65-34,138, and amendments thereto, after August 8, 2005, and before June
31 30, ~~2020~~ 2030;

32 (4) owner is in substantial compliance with the Kansas storage tank
33 act;

34 (5) owner provides 30-day notice and access to the department to
35 perform an environmental assessment of the site:

36 (A) During replacement of the single-wall storage tank system with
37 the secondary containment system installation, if done after July 1, 2015;
38 and

39 (B) that determines that petroleum contamination exists and the
40 owner applies to the underground fund to perform corrective action to
41 address the contamination; and

42 (6) underground storage tank was registered with the department on
43 or after May 1, 1981.

1 (b) Reimbursement pursuant to subsection (a) is subject to the
2 following:

3 (1) For replacements undertaken after July 1, 2015, the storage tank
4 owner must submit an application for reimbursement on forms supplied by
5 the department and receive approval from the secretary of the proposed
6 secondary containment system plan;

7 (2) upon approval of such plan, the owner shall obtain and submit to
8 the secretary at least three bids from persons qualified to perform the
9 secondary containment system installation except that, the secretary may
10 waive this requirement upon a showing that the owner has made a good
11 faith effort, but has not been able to obtain three bids from qualified
12 bidders;

13 (3) for replacements undertaken before July 1, 2015, the owner must
14 submit an application for reimbursement on forms supplied by the
15 department with proof of costs and receive approval from the secretary;
16 and

17 (4) the secretary may, in the secretary's discretion, determine those
18 costs ~~which~~ *that* are allowable as secondary containment system
19 installation costs.

20 (c) Applications for reimbursement must include documentation of
21 the secondary containment system installation and expense. Proof of
22 payment of all expenses for which reimbursement is requested must be
23 provided. The department will review those expenses based on current
24 industry costs and provide reimbursement of reasonable and necessary
25 costs. The department shall reimburse an applicant for the approved cost of
26 the secondary containment system not to exceed \$50,000 per facility *for*
27 *replacement work completed on and after August 8, 2005, and prior to*
28 *July 1, 2020. The department shall reimburse an applicant for the*
29 *approved cost of the secondary containment system not to exceed*
30 *\$100,000 per facility for replacement work completed on and after July 1,*
31 *2020, and prior to July 1, 2030. Any applicant who did not receive the*
32 *maximum reimbursement amount allowable for work completed after July*
33 *1, 2020, may submit a written request to the department for the remaining*
34 *reimbursement amount for work completed. Such written requests shall*
35 *include documentation of all expenses for which reimbursement is*
36 *requested and documentation of reimbursements previously received for*
37 *work completed .*

38 (d) The secretary may adopt such rules and regulations deemed
39 necessary to carry out the provisions of this section.

40 (e) The provisions of this section shall be a part of and supplemental
41 to the Kansas storage tank act.

42 Sec. 9. K.S.A. 65-34,105, 65-34,118, 65-34,119, 65-34,120, 65-
43 34,123, 65-34,128, 65-34,134 and 65-34,139 are hereby repealed.

1 Sec. 10. This act shall take effect and be in force from and after its
2 publication in the statute book.