

Approved: February 15, 2007
Date

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on February 7, 2007, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

It was noted that committee minutes from January 29, 30 and 31, 2007, were sent electronically and, by consensus, were approved as written on February 7, 2007.

The Chairman opened consideration of **HB 2145** - redefining "dispensing device" to include vehicle tank meters. Representative Grange made a motion, seconded by Representative Wolf, to adopt the amendment (Attachment 1). Raney Gilliland referenced the balloon amendment to allow the secretary of agriculture to reduce inspection fees if sufficient fees are collected and raise the fees, within the statutory cap, to maintain sufficient funds. The motion passed.

Regarding the petroleum inspection fee fund, Representative Grange made a motion to retain all fees collected in the fee fund, deleting the section that allows monies to be sent to the State General Fund. The motion was seconded by Representative Wolf (Attachment 2).

Members discussed the inspection fees fund. Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA), said the first \$250,000 of a fee goes into the State General Fund (SGF). He replied to a question that there is no cap on the fee fund; however, the Secretary can reduce or stop the fee collections if funds are sufficient. Mr. Gilliland replied to another question that 20% of fees up to \$250,000 go to the SGF and provide for the program operations. A member commented that the Appropriations Committee can sweep fee funds to supplement the SGF. The motion failed.

Representative Feuerborn moved to pass **HB 2145** favorably as amended; second, Representative Moxley. The motion passed.

The meeting was adjourned at 3:55 p.m. The next meeting is scheduled for February, 12, 2007.

HOUSE BILL No. 2145

By Committee on Agriculture and Natural Resources

1-19

the department of agriculture

regulatory authority thereof; petroleum products; dispensing devices

55-426,

9 AN ACT concerning ~~dispensing devices~~ relating to ~~vehicle tank meters~~
10 amending K.S.A. 55-422, 83-221 and 83-401 and repealing the existing
11 sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 55-422 is hereby amended to read as follows: 55-
15 422. K.S.A. 55-422 through ~~55-445 et seq.~~, and amendments thereto, may
16 be cited as the petroleum products inspection law. As used in the petro-
17 leum products inspection law:

18 (a) "Director" means the director of taxation of the Kansas depart-
19 ment of revenue, or the director's duly authorized deputy, agent, or
20 representative.

21 (b) "Secretary" means the secretary of agriculture or the secretary's
22 authorized representative.

23 (c) "Person" means an individual, firm, association, organization,
24 partnership, business trust, joint stock company, company, corporation,
25 or other legal entity.

26 (d) "Motor fuel" means any refined or blended motor fuel products,
27 including gasoline, diesel fuel, aviation fuel, oxygenated fuel, or any other
28 fuel used for generation of power in an internal combustion engine as
29 specified by the secretary by rules and regulations adopted under the
30 petroleum products inspection law.

31 (e) "Petroleum product" includes gasoline, kerosene, motor-fuels and
32 such other products as defined by rules and regulations adopted pursuant
33 to the petroleum products inspection law.

34 (f) The terms "manufacturer", "distributor" and "importer" shall
35 have the meanings ascribed to them in the motor-fuel tax law.

36 (g) "*Dispensing device*" means a motor-vehicle fuel or liquid fuel dis-
37 pensing pump, meter or other similar measuring device and shall include
38 any device which dispenses refined or blended gasoline or diesel fuel prod-
39 uct. *This definition shall not include liquefied petroleum meters.*

See Attachment

40 Sec. 2. K.S.A. 83-221 is hereby amended to read as follows: 83-221.
41 All inspections and tests to inspect, test and seal, certify or reject any
42 dispensing device, *as defined in K.S.A. 83-401, and amendments thereto,*
43 or the capacity of any vehicle tank used in the transportation of liquefied

And by renumbering remaining sections accordingly

1 petroleum gas, motor-vehicle fuels or liquid fuels shall be made in com-
2 pliance with the provisions of chapter 83 of the Kansas Statutes Anno-
3 tated, and amendments thereto, and the rules and regulations promul-
4 gated thereunder.

5 Sec. 3. K.S.A. 83-401 is hereby amended to read as follows: 83-401.
6 As used in K.S.A. 83-401 ~~to 83-410 et seq.~~ and 83-501 ~~and K.S.A. 1997~~
7 ~~Supp. 55-447 et seq.~~, and amendments thereto, inclusive:

8 (a) "Dispensing device" means a motor-vehicle fuel or liquid fuel
9 dispensing pump, meter or other similar measuring device and shall in-
10 clude any device which dispenses refined or blended gasoline or diesel
11 fuel product. This definition shall not include ~~vehicle tank meters or liq-~~
12 ~~uefied petroleum meters;~~

13 (b) "person" means any individual, agent, technical representative,
14 partnership, association, corporation or governmental agency but does not
15 include the secretary;

16 (c) "secretary" means the secretary of agriculture, the secretary's au-
17 thorized representative or the secretary's authorized inspector;

18 (d) "place of business" means any location from which a testing serv-
19 ice, or one or more representatives or employees thereof, sell and per-
20 form services for the purpose of testing, repairing, adjusting, measuring
21 or calibrating dispensing devices;

22 (e) "technical representative" means an individual who is responsible
23 for the proper installation, repair, adjustment or calibration and certifi-
24 cation of the accuracy of such dispensing devices; and

25 (f) "service company" means a company which is in the business of
26 examining, calibrating, testing, repairing and adjusting of dispensing de-
27 vices but such term does not include a technical representative unless the
28 technical representative is the owner of such service company.

29 Sec. 4. K.S.A. 55-422, ~~83-221~~ and 83-401 are hereby repealed.

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

55-426,

Sec. 2. K.S.A. 55-426 is hereby amended to read as follows:

55-426. Fees, amount; director of taxation, duties. (a) The director of taxation is entitled to demand and receive from the manufacturer, importer, exporter or distributor first selling, offering for sale, using or delivering gasoline or diesel including government sales, the sum of \$.015 per barrel. For purposes of this section {50 gallons is to be considered and counted as a barrel}.

(b) The secretary is hereby authorized and empowered to reduce the fees and charges provided by subsection (a) for any period deemed justified whenever the secretary shall determine that such fees and charges being paid into the state treasury as required by law are yielding more revenue than is required for the purposes to which such fees and charges are devoted by law. In the event that the secretary determines that sufficient revenues are not being produced by such reduced fees and charges, the secretary is hereby authorized and empowered to restore the fees and charges in full or in part to a rate not exceeding that provided in subsection (a) that will in the secretary's judgment produce sufficient revenue for the purposes to which such fees and charges are devoted by law.

HOUSE BILL No. 2145

By Committee on Agriculture and Natural Resources

1-19

9 AN ACT concerning ~~dispensing devices~~, relating to ~~vehicle tank meters~~; the department of agriculture
 10 amending K.S.A. 55-422, 83-221 and 83-401 and repealing the existing regulator authority thereof; petroleum products; dispensing devices
 11 sections. 55-427,

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

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 15 422. K.S.A. 55-422 through 55-445 *et seq.*, and amendments thereto, may
 16 be cited as the petroleum products inspection law. As used in the petro-
 17 leum products inspection law:

18 (a) "Director" means the director of taxation of the Kansas depart-
 19 ment of revenue, or the director's duly authorized deputy, agent, or
 20 representative.

21 (b) "Secretary" means the secretary of agriculture or the secretary's
 22 authorized representative.

23 (c) "Person" means an individual, firm, association, organization,
 24 partnership, business trust, joint stock company, company, corporation,
 25 or other legal entity.

26 (d) "Motor fuel" means any refined or blended motor fuel products,
 27 including gasoline, diesel fuel, aviation fuel, oxygenated fuel, or any other
 28 fuel used for generation of power in an internal combustion engine as
 29 specified by the secretary by rules and regulations adopted under the
 30 petroleum products inspection law.

31 (e) "Petroleum product" includes gasoline, kerosene, motor-fuels and
 32 such other products as defined by rules and regulations adopted pursuant
 33 to the petroleum products inspection law.

34 (f) The terms "manufacturer", "distributor" and "importer" shall
 35 have the meanings ascribed to them in the motor-fuel tax law.

36 (g) "*Dispensing device*" means a *motor-vehicle fuel or liquid fuel dis-*
 37 *persing pump, meter or other similar measuring device and shall include*
 38 *any device which dispenses refined or blended gasoline or diesel fuel prod-*
 39 *uct. This definition shall not include liquefied petroleum meters.*

40 Sec. 2. K.S.A. 83-221 is hereby amended to read as follows: 83-221.
 41 All inspections and tests to inspect, test and seal, certify or reject any
 42 dispensing device, *as defined in K.S.A. 83-401, and amendments thereto,*
 43 or the capacity of any vehicle tank used in the transportation of liquefied

See Attachment

And by renumbering remaining sections accordingly

2-2

1 petroleum gas, motor-vehicle fuels or liquid fuels shall be made in com-
2 pliance with the provisions of chapter 83 of the Kansas Statutes Anno-
3 tated, and amendments thereto, and the rules and regulations promul-
4 gated thereunder.

5 Sec. 3. K.S.A. 83-401 is hereby amended to read as follows: 83-401.
6 As used in K.S.A. 83-401 to ~~83-410~~ *et seq.* and 83-501 and K.S.A. 1997
7 ~~Supp. 55-447~~ *et seq.*, and amendments thereto, inclusive:

8 (a) "Dispensing device" means a motor-vehicle fuel or liquid fuel
9 dispensing pump, meter or other similar measuring device and shall in-
10 clude any device which dispenses refined or blended gasoline or diesel
11 fuel product. This definition shall not include ~~vehicle tank meters or liq-~~
12 ~~uefied petroleum meters;~~

13 (b) "person" means any individual, agent, technical representative,
14 partnership, association, corporation or governmental agency but does not
15 include the secretary;

16 (c) "secretary" means the secretary of agriculture, the secretary's au-
17 thorized representative or the secretary's authorized inspector;

18 (d) "place of business" means any location from which a testing serv-
19 ice, or one or more representatives or employees thereof, sell and per-
20 form services for the purpose of testing, repairing, adjusting, measuring
21 or calibrating dispensing devices;

22 (e) "technical representative" means an individual who is responsible
23 for the proper installation, repair, adjustment or calibration and certifi-
24 cation of the accuracy of such dispensing devices; and

25 (f) "service company" means a company which is in the business of
26 examining, calibrating, testing, repairing and adjusting of dispensing de-
27 vices but such term does not include a technical representative unless the
28 technical representative is the owner of such service company.

29 Sec. 4. K.S.A. 55-422, ~~83-221~~ and 83-401 are hereby repealed.

55-427,

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

Sec. 2. K.S.A. 55-427 is hereby amended to read as follows:

55-427. Monthly report of sales and payment of fees; interest and penalty when delinquent; petroleum inspection fee fund. (a) Every manufacturer, importer, or distributor of any of the above-named petroleum products subject to inspection and liable for the payment of fees as provided in the petroleum products inspection law, shall report in full and detail before the 25th day of every month at the office of the director of taxation, on blanks prepared, furnished and approved by the director of taxation, the quantity of each of the above-named petroleum products sold in the state of Kansas during the preceding calendar month, and shall, at the time of forwarding such report, compute and pay to the director of taxation at the director's office, the amount of fees due the state on all petroleum products subject to inspection during the preceding month.

(b) All fees imposed under the provisions of the petroleum products inspection law and not paid on or before the 25th day of the month succeeding the calendar month in which such petroleum products were sold or offered for sale shall be deemed delinquent and shall bear interest at the rate of 1% a month, or fraction thereof, from such due date until paid. In addition, there is hereby imposed upon all amounts of such fees remaining due and unpaid after such due date a penalty in the amount of 5%. Such penalty shall be added to and collected as part of the fees by the director of taxation. The fees, including penalty and interest shall be remitted by the director of taxation to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit the same in accordance with subsections (c) and (d).

(c) There is hereby created in the state treasury the petroleum inspection fee fund which shall be administered by the secretary of agriculture. All moneys credited to the petroleum

inspection fee fund shall be used for the expenses incurred for the performance of the duties and functions of the secretary of agriculture and the Kansas department of agriculture prescribed by K.S.A. 55-422 through 55-446, and amendments thereto, and K.S.A. 83-501, and amendments thereto, or any rules and regulations adopted thereunder, relating to the regulation of the quality of petroleum products, and for the expenses incurred for the performance of the duties and functions of the secretary of agriculture and the Kansas department of agriculture prescribed by K.S.A. 83-401 through 83-410, and amendments thereto, or any rules and regulations adopted thereunder, and K.S.A. 83-501, and amendments thereto, or any rules and regulations adopted thereunder, relating to the regulation of motor fuel dispensing devices, as defined by K.S.A. 83-401, and amendments thereto. All expenditures from the petroleum inspection fee fund shall be made in accordance with the provisions of appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

(d) All moneys received for the fee imposed by K.S.A. 55-426, and amendments thereto, or for interest or penalties imposed by K.S.A. 55-427, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and such moneys shall be credited in accordance with the following:

(1) On and after July 1 of each fiscal year, 2/3 of each such deposit shall be credited to the state general fund and the balance of each such deposit shall be credited to the petroleum inspection fee fund until the aggregate of all amounts credited to the state general fund under this subsection (d)(1) equals \$250,000; and

(2) after \$250,000 has been credited to the state general fund under subsection (d)(1) for any fiscal year, the entire amount of each amount deposited thereafter for such fiscal year

~~shall-be-credited~~ to the petroleum inspection fee fund.