

Approved: 3/13/07
Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:45 a.m. on March 6, 2007 in Room 423-S of the Capitol.

All members were present except:

Terry Bruce- excused
Steve Morris- excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research
Art Griggs, Office of Revisor of Statutes
Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture
Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas)

Others attending:

See attached list.

Chairman Taddiken noted the minutes of the February 28 meeting were distributed to Committee members. Senator Pine moved the approval of the February 28 minutes. Seconded by Senator Lee. Motion carried.

The hearing on **HB 2145 - Redefining "dispensing device" to include vehicle tank meters**, was opened.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture, appeared in support of **HB 2145 (Attachment 1)**. He said **HB 2145** amends the definition of a dispensing device to allow petroleum inspection fee funds (PIFF) to be used for inspecting and testing vehicle tank meters. Many vehicle tank meters are not being tested annually because there are no service companies available to conduct tests and limited resources. This bill would allow the KDA to use existing resources and staff to provide additional consumer protection while reducing costs for the regulated industry.

Mr. Cotsoradis stood for questions.

Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas) offered comments in support of **HB 2145 (Attachment 2)**. He said that **HB 2145** amends the definition of a dispensing device to allow the petroleum inspection fee funds (PIFF) to be used for inspecting and testing meters on vehicle tanks. The PMCA also supports the amended language that authorizes the Secretary of Agriculture to reduce the fees paid into the PIFF if reserves get to an excessive level. Mr. Palace also had suggested amendments to **HB 2145 (Attachment 3)**. He offered an amendment that would allow the funds to remain in the PIFF and not go into the state general fund. These funds would be used for inspections and testing of bio fuels.

Mr. Palace took questions from the Committee.

There were no opponents to **HB 2145**.

The hearing on **HB 2145** was closed.

Senator Francisco moved that the lines which were stricken in the proposed amendment be removed and the amount that can be credited to the state general fund be changed from \$250,000 to \$200,000 in K.S.A. 55-427. Motion seconded by Senator Lee.

Discussion was held on the motion.

Chairman Taddiken said work on **HB 2145** should be suspended until further information is received from the Kansas Department of Revenue.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture Committee at 8:45 a.m. on March 6, 2007 in Room 423-S of the Capitol.

No action was taken on the motion.

Chairman Taddiken said the Committee would not meet tomorrow, Wednesday, so that the Natural Resources Committee can meet. The Agriculture Committee will meet again on Tuesday, March 12.

The meeting was adjourned at 9:15 a.m.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 3-6-07

NAME	REPRESENTING
C V Coatsoradis	KDA
Tim Tyson	KDA
Jon PALACE	PMCA OF KS
Renee Klinges	Legislative Intern
Emily Geier	Hein Law Firm

**Testimony on HB 2145
to
Senate Agriculture Committee**

**by Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture**

March 6, 2007

Good afternoon, Mr. Chairman and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here to testify in support of House Bill 2145.

HB 2145 amends the definition of a dispensing device to allow petroleum inspection fee funds (PIFF) to be used for inspecting and testing vehicle tank meters. Vehicle tank meters are mounted on trucks that deliver fuel to farms and homes. An annual test of these meters is important to ensure that consumers receive the amount of product for which they have paid.

Currently, because there are no service companies available to conduct tests and we have limited resources for tests, many vehicle tank meters are not being tested annually. This bill will correct that problem and improve the accuracy of vehicle tank meters without significantly increasing costs or staff.

Following is a summary of what the bill does and does not do:

- It does not increase fees.
- It does not significantly increase expenditures from the fee fund.
 - There are one-time costs of approximately \$20,000 to purchase test equipment.
- It does increase the number of vehicle tank meters tested annually.
 - 35 tests were done in fiscal year 2006.
 - 330 tests are anticipated in fiscal year 2007.
 - 950 tests are projected (if PIFF funding is approved) for fiscal year 2008.
 - 1,300 tests are projected for fiscal year 2009.
- It does reduce expenses for businesses that use vehicle tank meters. When private service companies perform the test, it can cost between \$100 and \$200 per meter or about \$200 to \$400 per truck.
 - The cost for the test, if this bill passes, will be covered by the fees vehicle tank meter owners already pay, so it results in a savings for the business.

This bill is unique in that it will allow us to use existing resources and staff to provide additional consumer protection while reducing costs for the regulated industry.

I will answer questions at the appropriate time.

*Senate Agriculture Committee
3-6-07
Attachment 1*



Memo To: Senate Agriculture Committee
From: Thomas M. Palace
Date: March 6, 2007
Re: Comments on HB 2145

Mr. Chairman and members of Senate Agriculture Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

We appreciate the opportunity to make comments in support of HB 2145.

HB 2145 amends the definition of a dispensing device to allow the petroleum inspection fee fund (PIFF) to be used for inspecting and testing meters on vehicle tanks. PMCA also supports the amended language that authorizes the Secretary of Agriculture to reduce the fees paid into the PIFF if reserves get to an excessive level.

Inspecting vehicle tank meters for accuracy is an important consumer issue, and is consistent with policies and procedures that are currently in place for fuel dispensers.

Mr. Chairman, PMCA has an additional amendment to HB 2145. Currently, the first \$250,000 that is paid into the PIFF is credited to the State General Fund. The fees collected under the PIFF are used to run the Weights and Measures Division to inspect fueling dispensers for fuel quality and quantity.

With the proliferation of renewable fuels, fuel quality testing is of greater importance to the consumer as well as the sellers of these products. Many petroleum marketers guarantee their fuel, meaning they will repair engines if the fuel purchased is tainted, and want to make sure that any new product being sold in the marketplace meet state standards so that they continue the practice of guaranteed fuel. More importantly consumer confidence is very important, and quality testing of any new product that enters the market is needed.

This amendment would retain total funding in the PIFF Fund where it could be dedicated solely for improved fuel quality testing.

Kansas Consumers and members of our industry would benefit from all PIFF intended funds accomplishing what they were originally intended to accomplish.

Thank you.

Petroleum Marketers and Convenience Store Association of Kansas
115 SE 7th • Topeka, KS 66603
PO Box 678 • Topeka, KS 66601-0678
785-233-9655 • Fax: 785-354-4374

*Senate Agriculture
Committee
3-6-07
Attachment 2*

HOUSE BILL No. 2145

By Committee on Agriculture and Natural Resources

1-19

10 AN ACT concerning ~~dispensing devices~~ **the department of agricul-**
11 **ture;** relating to ~~vehicle tank meters~~ **regulatory authority thereof;**
12 **petroleum products; dispensing devices;** amending K.S.A. 55-422,
13 **55-426,** 83-221 and 83-401 and repealing the existing sections.

55-427,

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

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

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

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

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

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

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

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

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

41 **Sec. 2. K.S.A. 55-426 is hereby amended to read as follows: 55-**
42 **426. (a) The director of taxation is entitled to demand and receive**
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Tom Palace
Senate Agriculture
Committee
3-6-07
Attachment 3

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1 from the manufacturer, importer, exporter or distributor first sell-
2 ing, offering for sale, using or delivering gasoline or diesel includ-
3 ing government sales, the sum of \$.015 per barrel. For the purposes
4 of this section {50 gallons is to be considered and counted as a
5 barrel}.

6 (b) The secretary is hereby authorized and empowered to reduce the
7 fees and charges provided by subsection (a) for any period deemed jus-
8 tified whenever the secretary shall determine that such fees and charges
9 being paid into the state treasury as required by law are yielding more
10 revenue than is required for the purposes to which such fees and charges
11 are devoted by law. In the event that the secretary determines that suf-
12 ficient revenues are not being produced by such reduced fees and charges,
13 the secretary is hereby authorized and empowered to restore the fees and
14 charges in full or in part to a rate not exceeding that provided in subsec-
15 tion (a) that will in the secretary's judgment produce sufficient revenue
16 for the purposes to which such fees and charges are devoted by law.

See Attachment

17 Sec. ~~2~~ 3. K.S.A. 83-221 is hereby amended to read as follows: 83-
18 221. All inspections and tests to inspect, test and seal, certify or reject
19 any dispensing device, as defined in K.S.A. 83-401, and amendments
20 thereto, or the capacity of any vehicle tank used in the transportation of
21 liquefied petroleum gas, motor-vehicle fuels or liquid fuels shall be made
22 in compliance with the provisions of chapter 83 of the Kansas Statutes
23 Annotated, and amendments thereto, and the rules and regulations prom-
24 ulgated thereunder.

And renumber remaining sections accordingly

25 Sec. ~~3~~ 4. K.S.A. 83-401 is hereby amended to read as follows: 83-
26 401. As used in K.S.A. 83-401 to ~~83-410~~ *et seq.* and 83-501 and K.S.A.
27 ~~1997 Supp. 55-447~~ *et seq.*, and amendments thereto, inclusive:

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

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

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

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

42 (e) "technical representative" means an individual who is responsible
43 for the proper installation, repair, adjustment or calibration and certifi-

1 cation of the accuracy of such dispensing devices; and
2 (f) "service company" means a company which is in the business of
3 examining, calibrating, testing, repairing and adjusting of dispensing de-
4 vices but such term does not include a technical representative unless the
5 technical representative is the owner of such service company.

6 Sec. ~~4~~ **5**. K.S.A. 55-422, ~~55-426~~, 83-221 and 83-401 are hereby
7 repealed.

55-427,

8 Sec. ~~5~~ **6**. This act shall take effect and be in force from and after its
9 publication in the statute book.

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B

Sec. 3. 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

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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.~~

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