

CHAPTER 89

SENATE Substitute for HOUSE BILL No. 2634°

AN ACT concerning the environment; relating to non-fuel flammable or combustible liquid aboveground storage tanks; duties of state fire marshal; civil penalties; creating the non-fuel flammable or combustible liquid aboveground storage tank system fund.

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

Section 1. (a) As used in this section:

(1) "Facility" means all buildings, equipment, structures, tanks and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person or by any person which controls, is controlled by or under common control with such person, upon which one or more non-fuel flammable or combustible liquid aboveground storage tank system or systems is located, with bulk storage stations and terminals having a bulk storage total capacity of 10,000 gallons or more of flammable or combustible liquids.

(2) "Non-fuel flammable or combustible liquid" means flammable or combustible liquids not used for fuel including, but not limited to, solvents. "Non-fuel flammable or combustible liquid" shall not include the following compounds: New and used motor oil, transmission fluid, hydraulic oil, grease and lube oil; asphalt; asphalt emulsion; road oil; crude oil; mineral oil; processed fat; food grade oil; vegetable oil; and ethylene glycol.

(3) "Non-fuel flammable or combustible liquid aboveground storage tank system" means an aboveground storage tank system that contains non-fuel flammable or combustible liquids.

(b) (1) On or before July 1, 2009, the state fire marshal shall conduct an on-site inspection of each facility in existence on the effective date of this section to determine compliance with all standards concerning flammable and combustible liquids contained in national fire protection association pamphlet no. 30, 2008 edition, and all rules and regulations concerning aboveground storage tanks.

(2) If the state fire marshal determines that a facility is in compliance with such standards, rules and regulations, the state fire marshal shall conduct an on-site inspection of the facility at least once every three years thereafter to determine continued compliance with such standards, rules and regulations.

(3) If the state fire marshal determines that a facility is not in compliance with such standards, rules and regulations, the facility shall make all changes necessary to comply with such standards, rules and regulations as soon as practicable, but no later than July 1, 2012. Upon notification of compliance by the facility, but no later than July 1, 2012, the state fire marshal shall conduct an on-site inspection of the facility to determine compliance. Upon determination of compliance, the state fire marshal shall conduct an on-site inspection of the facility at least once every three years thereafter to determine continued compliance with such standards, rules and regulations.

(c) (1) An application and plan for design, construction, major modification and installation of all non-fuel flammable or combustible liquid aboveground storage tank facilities after the effective date of this section shall be submitted to the state fire marshal. Construction, major modification and installation of such facilities shall not commence until such application and plan is reviewed and approved by the state fire marshal in accordance with rules and regulations.

(2) The state fire marshal shall approve or deny such submitted applications and plans within 20 business days upon receipt of all necessary documentation as provided for in rules and regulations. If the state fire marshal requests additional information from the applicant, the state fire marshal shall have an additional 20 business days from the day of receipt of such information to approve or deny the submitted application and plan.

(3) The state fire marshal shall conduct an on-site inspection of each facility constructed after the effective date of this section, before such facility begins operation, to determine compliance with all standards concerning flammable and combustible liquids contained in national fire protection association pamphlet no. 30, 2008 edition, and all rules and regulations concerning aboveground storage tanks. Such facility shall not begin operation until the state fire marshal makes a determination of

compliance. Upon determination of compliance, the state fire marshal shall conduct an on-site inspection of the facility at least once every three years thereafter to determine continued compliance with such standards, rules and regulations.

(d) On and after July 1, 2012, if the state fire marshal determines that a facility is not in compliance with all standards concerning flammable and combustible liquids contained in national fire protection association pamphlet no. 30, 2008 edition, and all rules and regulations concerning aboveground storage tanks, such facility shall be subject to a fine of \$100 per tank every 30 days until the state fire marshal makes a determination of compliance. All fines assessed and collected under this section 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 to the credit of the non-fuel flammable or combustible liquid aboveground storage tank system fund.

(e) The state fire marshal shall report annually to the senate standing committee on natural resources and the house of representatives standing committee on agriculture and natural resources regarding inspections and compliance pursuant to this section.

(f) On or before September 1, 2008, the state fire marshal shall adopt rules and regulations necessary to administer and enforce the provisions of this section. Such rules and regulations shall include adoption of all standards concerning flammable and combustible liquids contained in national fire protection association pamphlet no. 30, 2008 edition.

(g) The state fire marshal shall adopt rules and regulations specifying subsequent editions of national fire protection association pamphlet no. 30 which the state fire marshal has determined to be equivalent to the 2008 edition. Compliance with any subsequent edition specified by such rules and regulations shall be considered compliance with the 2008 edition specified in this section.

(h) This section shall be part of and supplemental to the Kansas storage tank act.

Sec. 2. (a) There is hereby established as a segregated fund in the state treasury the non-fuel flammable or combustible liquid aboveground storage tank system fund. Revenue from the fines assessed pursuant to section 1, and amendments thereto, shall be deposited in the state treasury and credited to the fund.

(b) Moneys in the non-fuel flammable or combustible liquid aboveground storage tank system fund shall be expended only for administration and enforcement of the provisions of section 1, and amendments thereto.

(c) All expenditures from the non-fuel flammable or combustible liquid aboveground storage tank system fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state fire marshal.

(d) This section shall be part of and supplemental to the Kansas storage tank act.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 14, 2008.

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