

CHAPTER 93  
HOUSE BILL No. 2660

AN ACT concerning the secretary of agriculture; relating to agricultural chemicals; registration requirements; petroleum products; payment of fees; amending K.S.A. 55-427 and K.S.A. 2007 Supp. 2-2204 and repealing the existing sections.

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

Section 1. K.S.A. 55-427 is hereby amended to read as follows: 55-427. (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~~ 55-427, 55-434 through 55-445 and 55-447, 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,  $\frac{2}{3}$  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~~ \$100,000; and

(2) after ~~\$250,000~~ \$100,000 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.

Sec. 2. K.S.A. 2007 Supp. 2-2204 is hereby amended to read as follows: 2-2204. (a) Every agricultural chemical which is distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered in the office of the secretary. *The secretary may adopt rules and regulations to allow products to be registered for a period not to exceed three years.* All registration of products shall expire on December 31 ~~following the date of issuance of the year the registration is set to expire,~~ unless such registration shall be renewed ~~annually,~~ in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated. Products which have the same formula, and are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same agricultural chemical may be registered as a single product and additional names and labels shall be added by supplement statements during the current period of registration. Within the discretion of the secretary, or an authorized representative of the secretary, a change in the labeling or formulas of an agricultural chemical may be made within the current period of registration without requiring a reregistration of the product. Any agricultural chemical imported into this state which is subject to the provisions of any federal act providing for the registration and which has been duly registered under the provisions of such federal act, in the discretion of the secretary, may be exempted from registration under this act when such agricultural chemical is sold or distributed in the unbroken immediate container in which such agricultural chemical was originally shipped.

(b) The registrant shall file with the secretary, a statement including: (1) The name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; (2) the name of the agricultural chemical; (3) a complete copy of the labeling accompanying the agricultural chemical and a statement of all claims made and to be made for it and a statement of directions for use; and (4) if requested by the secretary, or an authorized representative of the secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the product was registered or last reregistered.

(c) ~~On the date of registration, the registrant shall pay an annual a fee fixed by rules and regulations adopted by the secretary of agriculture; except that such fee shall not exceed \$130, or commencing July 1, 2002, and ending on June 30, 2010, such fee shall not exceed \$150 for each agricultural chemical registered. Such fee shall equal an amount per registered agricultural chemical, not to exceed \$150, multiplied by the number of years registered.~~ Such fee shall be deposited in the state treasury and credited as follows: (1) An amount equal to \$100 for each ~~fee so deposited year of registration~~ shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; and (2) the remainder shall be credited to the agricultural chemical fee fund to be used for carrying out the provisions of this act. The annual fee for each agricultural chemical registered which is in effect on the day preceding the effective date of this act shall continue in effect until the secretary of agriculture adopts rules and regulations fixing a different fee therefor under this subsection. The secretary of agriculture is hereby authorized and empowered, whenever it determines that the fee imposed by this subsection and paid into the state treasury as provided by law is yielding more revenue than is required for the purposes to which such fee is devoted by law, to reduce the fee imposed by this subsection for such period as the secretary shall deem justified by adopting rules and regulations under this subsection but not for less than one year. In the event that the secretary, after reducing such fee, finds that sufficient revenues are not being produced by such reduced fee, the secretary is authorized and empowered by adopting rules and regulations under this subsection, to restore in full or in part such fee to an amount which, in the judgment of the secretary, will produce sufficient revenues for the purposes as provided in this section, but not exceeding the maximum amount of the fee imposed by this subsection.

(d) The secretary, or an authorized representative of the secretary, whenever it is deemed essential in the administration of this act, may require the submission of the complete formula of any agricultural chemical. If it appears to the secretary, or an authorized representative of the secretary, that the composition of the product is such as to warrant the proposed claims for the product and if the product and its labeling and other material required to be submitted comply with the requirements of this act, the secretary shall register the product.

(e) If it does not appear to the secretary, or an authorized representative of the secretary, that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with the provisions of this act, the secretary shall notify the registrant of the manner in which the product, labeling, or other material required to be submitted fail to comply with the act so as to afford the registrant an opportunity to make the necessary corrections.

(f) In order to protect the public, the secretary, or a duly authorized representative of the secretary, on the secretary's own motion, may at any time, after written notice to the registrant, cancel the registration of an agricultural chemical. Any person so notified shall be given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act with regard to the secretary's contemplated action, before any registration is canceled or revoked.

(g) Notwithstanding any other provisions of this act, registration is not required in the case of an agricultural chemical shipped from one plant within this state to another plant within this state operated by the same person.

Sec. 3. K.S.A. 55-427 and K.S.A. 2007 Supp. 2-2204 are hereby repealed.

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

Approved April 18, 2008.

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