

CHAPTER 63
HOUSE BILL No. 2418

AN ACT concerning the carbon dioxide reduction act; pertaining to liability of the state of Kansas; pertaining to rules and regulations; amending K.S.A. 2009 Supp. 55-1636 and 55-1637 and repealing the existing sections.

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

New Section 1. (a) Except as permitted by the Kansas tort claims act, no provision of this act shall establish or create or impose upon the commission, any agent or employee thereof, or the state of Kansas any liability or responsibility to pay any damages resulting from the leak or discharge of carbon dioxide from any carbon dioxide injection well or the underground storage of carbon dioxide.

(b) This section shall be supplemental to and a part of the carbon dioxide reduction act.

Sec. 2. K.S.A. 2009 Supp. 55-1636 is hereby amended to read as follows: 55-1636. K.S.A. 2009 Supp. 55-1636 through 55-1640, *section 1*, 79-233 and 79-32,256, and amendments thereto, may be cited as the carbon dioxide reduction act.

Sec. 3. K.S.A. 2009 Supp. 55-1637 is hereby amended to read as follows: 55-1637. (a) As used in K.S.A. 2009 Supp. 55-1637 through 55-1640, and amendments thereto:

(1) "Carbon dioxide injection well" means any hole or penetration of the surface of the earth used to inject carbon dioxide for underground storage or for enhanced recovery of hydrocarbons and any associated machinery and equipment used for such injection of carbon dioxide. "Carbon dioxide injection well" does not include underground storage.

(2) "Commission" means the state corporation commission.

(3) "Underground storage" means any underground formation where carbon dioxide is injected for sequestration.

(b) *Except as provided in subsection (h)*, for the purposes of protecting the health, safety and property of the people of the state, and preventing escape of carbon dioxide into the atmosphere and pollution of soil and surface and subsurface water detrimental to public health or to plant, animal and aquatic life, the commission, on or before July 1, 2008, shall adopt separate and specific rules and regulations establishing requirements, procedures and standards for the safe and secure injection of carbon dioxide and maintenance of underground storage of carbon dioxide. Such rules and regulations shall include, but not be limited to: (1) Site selection criteria; (2) design and development criteria; (3) operation criteria; (4) casing requirements; (5) monitoring and measurement requirements; (6) safety requirements, including public notification; (7) closure and abandonment requirements, including the financial requirements of subsection (e); and (8) long-term monitoring.

(c) *Except as provided in subsection (h)*, the commission may adopt rules and regulations establishing fees for permitting, monitoring and inspecting operators of carbon dioxide injection wells and underground storage. Fees collected by the commission under this subsection shall be remitted by the commission 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 it to the carbon dioxide injection well and underground storage fund.

(d) The commission or the commission's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the commission or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

(e) Any company or operator receiving a permit under the provisions of this act shall demonstrate annually to the commission evidence, satisfactory to the commission, that the permit holder has financial ability to cover the cost of closure of the permitted facility as required by the commission.

(f) The commission may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of rules and regulations pursuant to this section.

(g) Rules and regulations adopted under this act shall apply to any carbon dioxide injection well or underground storage, whether in existence on the effective date of this act or thereafter.

(h) *No rule or regulation adopted under the provisions of this section shall create or impose upon the commission, any agent or employee thereof or the state of Kansas any liability for the underground storage of carbon dioxide or the maintenance of any carbon dioxide injection well or underground storage of carbon dioxide except as permitted by the Kansas tort claims act. From and after July 1, 2010, any requirement in any rule and regulation adopted by the commission which conflicts with the prohibition prescribed in this section shall be null and void.*

(i) *No rule or regulation adopted under the provisions of this section shall be construed to prohibit the commission from the plugging, replugging, repairing or remediation of any carbon dioxide injection well or underground storage in an emergency situation.*

Sec. 4. K.S.A. 2009 Supp. 55-1636 and 55-1637 are hereby repealed.

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

Approved April 6, 2010.
