

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2282

By Committee on Agriculture and Natural Resources Budget

2-11

1 AN ACT concerning lodging inspections; relating to lodging inspection  
2 fees; amending K.S.A. 2010 Supp. 36-502, 36-518 and 74-591 and  
3 repealing the existing sections; also repealing K.S.A. 2010 Supp.  
4 36-512.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 **New Section 1. There is hereby created the lodging fee fund.**  
8 **The secretary shall remit all license fees received by the secretary**  
9 **under the provisions of K.S.A. 2010 Supp. 36-502, and amendments**  
10 **thereto, and all license renewal fees for lodging establishments**  
11 **under K.S.A. 36-505, and amendments thereto, to the state**  
12 **treasurer in accordance with the provisions of K.S.A. 75-4215, and**  
13 **amendments thereto. Upon receipt of each such remittance, the**  
14 **state treasurer shall deposit the entire amount in the state treasury**  
15 **to the credit of the lodging fee fund. All expenditures from the**  
16 **lodging fee fund shall be made in accordance with appropriation**  
17 **acts upon warrants of the director of accounts and reports issued**  
18 **pursuant to vouchers approved by the secretary of agriculture or**  
19 **by a person designated by the secretary. This section shall be a**  
20 **part of and supplemental to the food service and lodging act.**

21 ~~Section 1.~~ **Sec. 2.** K.S.A. 2010 Supp. 36-502 is hereby amended to  
22 read as follows: 36-502. (a) It shall be unlawful for any person to  
23 engage in the business of conducting a lodging establishment unless  
24 such person shall have in effect a valid license therefor issued by the  
25 secretary of agriculture. Applications for such licenses shall be made on  
26 forms prescribed by the secretary, and each such application shall be  
27 accompanied by the appropriate license fee required by subsection (c)  
28 of this section. Prior to the issuance of any such license, the secretary  
29 shall inspect or cause to be inspected the lodging establishment  
30 designated in the application, to determine that it complies with the  
31 standards for lodging establishments promulgated pursuant to this act.  
32 If such lodging establishment is found to be in compliance, the  
33 secretary shall issue the license. If the application for license is denied,

1 the secretary shall give written notice thereof to the applicant, stating  
2 also that the applicant is entitled to a hearing thereon if a written  
3 request therefor is filed with the secretary within 20 days of the date  
4 such notice is sent. Such hearing shall be held in accordance with the  
5 provisions of the Kansas administrative procedure act.

6 (b) Each license shall designate whether the licensed lodging unit  
7 is a hotel, rooming house or boarding house. Any person obtaining a  
8 license to engage in the business of conducting a rooming house or  
9 boarding house shall not have the right to use the name "hotel" in  
10 connection with such business. Every license issued hereunder shall be  
11 displayed conspicuously in the lodging establishment for which it is  
12 issued, and no such license shall be transferable to any other person or  
13 location. Whenever any such license is lost, destroyed or mutilated, a  
14 duplicate license shall be issued to any otherwise qualified licensee  
15 upon application therefor and the payment of a fee in the amount of ~~\$3~~  
16 \$5.

17 (c) The fee for a license to conduct a lodging establishment in this  
18 state for all or any part of any calendar year shall be \$30, except that  
19 the fee for any lodging establishment containing 10 sleeping rooms  
20 shall be ~~\$35~~ \$40 and for every additional 10 rooms therein, an  
21 additional fee of ~~\$5~~ \$10 shall be charged. *The license fee shall not*  
22 *exceed \$300.* All lodging establishments which are ~~new~~, newly  
23 constructed, *newly converted to use as a lodging facility* **establishment**  
24 or have a change of ownership shall pay an application fee which may  
25 be adjusted in accordance with the type of establishment or based on  
26 other criteria as determined by the secretary, but in no event shall any  
27 application fee exceed ~~\$100~~ \$200 in addition to the license fee.

28 (d) Any person who, on the effective date of this act, has a valid  
29 license to operate a hotel or rooming house shall be a licensee under the  
30 provisions of this act, and any such license is hereby deemed to be a  
31 license to operate a lodging establishment issued under the provisions  
32 of this act.

33 Sec. ~~2-3~~. K.S.A. 2010 Supp. 36-518 is hereby amended to read as  
34 follows: 36-518. (a) The secretary shall inspect or cause to be inspected  
35 every lodging establishment in this state. *Any lodging establishment in*  
36 *this state shall be inspected upon receipt of a complaint indicating that*  
37 *a lodging establishment does not comply with the applicable standards*  
38 *promulgated in the rules and regulations of the secretary.* ~~For such~~  
39 ~~inspections~~ The secretary or the secretary's lawful agent shall have the

1 right of entry and access thereto, at any reasonable time.

2 (b) Whenever, upon inspection, it is determined that any lodging  
3 establishment does not comply with the applicable standards  
4 promulgated in the rules and regulations of the secretary, the secretary  
5 shall give written notice to the owner, proprietor or agent in charge of  
6 such establishment of the changes or alterations necessary to comply  
7 with such standards.

8 (1) The notice shall order the establishment to comply with the  
9 applicable standards within a period of time specified in the notice,  
10 which shall be not less than 10 days, except that a shorter period of  
11 time may be provided in the notice whenever the secretary believes it  
12 essential to protect the public health and safety.

13 (2) The notice also shall state that the license for such  
14 establishment shall be subject to suspension or revocation for failure to  
15 comply with the applicable standards within the time specified.

16 (3) The licensee of any establishment given a notice pursuant to  
17 this section may apply to the secretary for an extension of the time  
18 specified in the notice. The secretary shall review such application and  
19 may grant or deny such application or modify the provisions of the  
20 notice with respect to the time for compliance with any of the  
21 particulars stated in the notice.

22 (c) Upon reinspection of any lodging establishment given a notice  
23 pursuant to this section, if it is determined that such establishment does  
24 not comply with the applicable standards promulgated in the rules and  
25 regulations of the secretary, the secretary may suspend or revoke the  
26 license issued for such establishment. If the secretary suspends or  
27 revokes the license, the secretary shall send written notice to the  
28 licensee that the license for such establishment will be suspended or  
29 revoked, effective 20 days after the date such notice is sent, unless  
30 within such time the licensee files with the secretary a written request  
31 for a hearing on the proposed suspension or revocation. All hearings  
32 pursuant to this section shall be conducted in accordance with the  
33 provisions of the Kansas administrative procedure act.

34 (d) The secretary is authorized to receive lodging inspection  
35 reports from qualified individuals, private entities or public entities to  
36 determine compliance with lodging standards promulgated pursuant to  
37 the food service and lodging act, and amendments thereto. The  
38 secretary is authorized to promulgate such rules and regulations as are  
39 necessary to receive such inspection reports. Such rules and regulations

1 shall be promulgated on or before July 1, 2010.

2 (e) This section shall be a part of and supplemental to the food  
3 service and lodging act.

4 Sec. ~~3-4~~. K.S.A. 2010 Supp. 74-591 is hereby amended to read as  
5 follows: 74-591. ~~(a) The balances of all funds or accounts thereof~~  
6 ~~appropriated or reappropriated for the department of health and~~  
7 ~~environment relating to the powers, duties and functions transferred by~~  
8 ~~this act are hereby transferred within the state treasury to the Kansas~~  
9 ~~department of agriculture and shall be used only for the purpose for~~  
10 ~~which the appropriation was originally made. On and after October 1,~~  
11 ~~2004, all such balances shall be deposited in the food safety fee fund~~  
12 ~~and may be used to carry out the responsibilities and duties of the~~  
13 ~~division of food safety of the Kansas department of agriculture, as~~  
14 ~~established by this act.~~

15 ~~(b)(a)~~ There is hereby created the food safety fee fund. The  
16 Kansas department of agriculture shall remit all moneys received by or  
17 for it from fees; *and charges or penalties from the powers, duties and*  
18 *functions transferred to and imposed upon the department of*  
19 *agriculture and secretary of agriculture pursuant to K.S.A. 74-581 and*  
20 *74-5,104, and amendments thereto, except moneys deposited to the*  
21 *credit of the lodging fee fund in the state treasury* to the state treasurer  
22 in accordance with the provisions of K.S.A. 75-4215, and amendments  
23 thereto. Upon receipt of each such remittance, the state treasurer shall  
24 deposit the entire amount in the state treasury to the credit of the food  
25 safety fee fund. All expenditures from the food safety fee fund shall be  
26 made in accordance with appropriation acts upon warrants of the  
27 director of accounts and reports issued pursuant to vouchers approved  
28 by the secretary of agriculture or by a person or persons designated by  
29 the secretary.

30 *(b) On July 1, 2011, the director of accounts and reports shall*  
31 *transfer all moneys in the food service inspection reimbursement fund*  
32 *and the food inspection fee fund to the food safety fee fund. On July 1,*  
33 *2011, all liabilities of the food service inspection reimbursement fund*  
34 *and the food inspection fee fund are hereby imposed on the food safety*  
35 *fee fund. The food inspection fee fund and the food service inspection*  
36 *reimbursement fund are hereby abolished. Upon the abolition of those*  
37 *funds, any reference to those funds of any designation thereof, in any*  
38 *statute, contract or other document shall mean the food safety fee fund.*

39 Sec. 4-5. K.S.A. 2010 Supp. 36-502, 36-512, 36-518 and 74-591

1 are hereby repealed.

2       Sec. ~~5-6~~. This act shall take effect and be in force from and after  
3 its publication in the statute book.

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