

As Amended by House Committee

As Amended by Senate Committee

Session of 2011

SENATE BILL No. 227

By By Committee on Ways and Means

3-8

1 AN ACT concerning ~~anemometer towers; relating to required markings;~~
2 ~~penalties~~ **property; relating to renewable energy; amending K.S.A.**
3 **58-2272 and repealing the existing section.**
4

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

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

7 (1) "Anemometer" means an instrument for measuring and recording
8 the speed of wind; and.

9 (2) "anemometer tower" means a structure, including all guy wires
10 and accessory facilities, on which an anemometer is mounted ~~for the~~
11 ~~purposes of documenting whether a site has wind resources sufficient for~~
12 ~~the operation of a wind turbine generator.~~

13 (b) Any anemometer tower that is 50 feet in height above the ground
14 or higher, located outside the exterior corporate boundaries of any
15 municipality city, and whose appearance is not otherwise mandated by
16 state or federal law, shall be marked, painted, flagged or otherwise
17 constructed to be recognizable in clean air during daylight hours. Any
18 anemometer tower that was erected before July 1, 2011 shall be marked as
19 required by this section within two years after the effective date of this act.
20 Any anemometer tower that is erected on or after the July 1, 2011 shall be
21 marked as required by this section at the time it is erected. Marking
22 required under this section includes marking the anemometer tower, guy
23 wires and accessory facilities as follows:

24 (1) The top $\frac{1}{3}$ of the anemometer tower shall be painted in equal,
25 alternating bands of aviation orange and white, beginning with orange at
26 the top of the tower and ending with orange at the bottom of the marked
27 portion of the tower;

28 (2) two marker balls shall be attached to and evenly spaced on each
29 of the outside guy wires; *and*

30 (3) ~~the area surrounding each point where a guy wire is anchored to~~
31 ~~the ground shall be a contrasting appearance with any surrounding~~
32 ~~vegetation. If the adjacent land is grazed, the area surrounding the anchor~~
33 ~~point shall be fenced. The area surrounding the anchor point means an area~~
34 ~~not less than 64 square feet whose outer boundary is at least four feet from~~

1 ~~the anchor point; and~~

2 ~~(4) (3)~~ one or more seven-foot safety sleeves shall be placed at each
3 anchor point and shall extend from the anchor point along each guy wire
4 attached to the anchor point.

5 (c) Failure to properly mark an anemometer tower is failing to mark
6 an anemometer tower as required by subsection (b). An owner of an
7 anemometer tower who fails to properly mark an anemometer tower shall
8 be guilty of a class C nonperson misdemeanor.

9 **Sec. 2. K.S.A. 58-2272 is hereby amended to read as follows: 58-**
10 **2272. (a) Every instrument that conveys any estate or interest created**
11 **by any lease or easement involving wind or solar resources and**
12 **technologies to produce and generate electricity shall include:**

13 ~~(a) (1)~~ **A description of the real property subject to the easement**
14 **and a description of the real property benefitting from the wind or**
15 **solar lease or easement;**

16 ~~(b) (2)~~ a description of the vertical and horizontal angles, expressed in
17 degrees, and distances from the site of the wind or solar power system in
18 which an obstruction to the wind or solar system is prohibited or limited;

19 ~~(c) (3)~~ **all terms or conditions under which the lease or easement**
20 **is granted or may be terminated, except that if the instrument is**
21 **recorded under K.S.A. 58-2221, and amendments thereto, any**
22 **compensation received by the owner of the real property may be**
23 **excluded; and**

24 ~~(d) (4)~~ **any other provisions necessary or desirable to execute the**
25 **instrument.**

26 *(b) No person other than the surface owner of a tract of land shall have*
27 *the right to use such land for the production of wind or solar generated*
28 *energy unless granted such right by the lawful owner of the surface estate*
29 *by lease or easement for a definite period.*

30 *(c) The provisions of subsection (b) shall not apply to any lease or*
31 *easement filed of record prior to July 1, 2011, with the register of deeds of*
32 *the county in which the tract is located.*

33 *(d) Nothing in this section shall be construed to affect any otherwise*
34 *enforceable restriction on the use of any tract of land for the production of*
35 *wind or solar energy whether or not such restriction is in the form of an*
36 *easement for a definite term.*

37 **Sec. 3. K.S.A. 58-2272 is hereby repealed.**

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