

HOUSE BILL No. 2305

By Committee on Energy and Environment

2-12

1 AN ACT concerning the Kansas storage tank act; relating to secondary
2 containment of underground storage tanks; amending K.S.A. 2012
3 Supp. 65-34,102 and 65-34,103 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) Each underground storage tank, or piping
7 connected to any such tank, installed or replaced on and after July 1, 2013,
8 shall be secondarily contained and monitored for leaks. (1) All secondary
9 containment systems shall: (A) Be designed, constructed and installed to
10 contain regulated substances released from the tank system until they are
11 detected and removed;

12 (B) prevent the release of regulated substances to the environment at
13 any time during the operational life of the underground storage tank
14 system; and

15 (C) be checked for evidence of a release using interstitial monitoring.

16 (2) Any installation or replacement of secondarily contained piping
17 shall include installation of containment of the submersible pump, but the
18 requirement for secondary containment shall not apply to safe suction
19 piping or repairs to an underground storage tank, piping or dispenser that
20 are meant to restore a tank, pipe or dispenser to operating condition.

21 (b) The provisions of this section shall apply: (1) For a new
22 underground storage tank system, to all underground storage tanks and
23 connected pipes comprising the system, including systems comprised of
24 multiple storage tanks or connected piping;

25 (2) for the replacement of an existing underground storage tank or
26 existing piping connected to an underground storage tank system, to the
27 specific underground storage tank or piping being replaced and not to
28 other underground storage tanks and connected pipes comprising such
29 system;

30 (3) to any new motor fuel dispenser system installed after June 30,
31 2013, shall include under-dispenser spill containment. The containment
32 must be: (A) Liquid tight on its sides, bottom and at any penetrations;

33 (B) compatible with the substance conveyed by the piping; and

34 (C) designed to allow for visual inspection and access to the
35 components in the containment or to be monitored for a release of
36 regulated substances from dispenser and piping.

1 Sec. 2. K.S.A. 2012 Supp. 65-34,102 is hereby amended to read as
2 follows: 65-34,102. As used in the Kansas storage tank act:

3 (a) "Aboveground storage tank" means:

4 (1) Any storage tank in which greater than 90% of the tank volume,
5 including volume of the piping, is not below the surface of the ground; or

6 (2) any storage tank situated in an underground area, such as a
7 basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is
8 situated upon or above the surface of the floor.

9 (b) "Aboveground fund" means the aboveground petroleum storage
10 tank release trust fund.

11 (c) "Department" means the Kansas department of health and
12 environment.

13 (d) "Facility" means all contiguous land, structures and other
14 appurtenances and improvements on the land used in connection with one
15 or more storage tanks.

16 (e) "Federal act" means the solid waste disposal act (42 U.S.C. §
17 3152 et seq., 42 U.S.C. § 6991 et seq., as in effect on January 1, 2012) and
18 rules and regulations adopted pursuant to such federal laws and in effect
19 on January 1, 2012.

20 (f) "Financial responsibility" means insurance, guarantee, surety
21 bond, letter of credit, qualification as a self-insurer or any other method
22 satisfactory to the secretary to provide for taking corrective action,
23 including cleanup and restoration of any damage to the land, air or waters
24 of the state, and compensating third parties for cleanup, bodily injury or
25 property damage resulting from a sudden or nonsudden release of a
26 regulated substance arising from the construction, relining, ownership or
27 operation of an underground storage tank and in the amount specified in
28 the federal act.

29 (g) "Guarantor" means any person, other than an owner or operator,
30 who provides evidence of financial responsibility for an owner or operator.

31 (h) "Operator" means any person in control of or having
32 responsibility for the daily operation of a storage tank, but such term shall
33 not include a person whose only responsibility regarding such storage tank
34 is filling such tank with a regulated substance and who does not dispense
35 or have control of the dispensing of regulated substances from the storage
36 tank.

37 (i) "Own" means to hold title to or possess an interest in a storage
38 tank or the regulated substance in a storage tank.

39 (j) (1) "Owner" means any person who: (A) Is or was the owner of
40 any underground storage tank which was in use on November 8, 1984, or
41 brought into use subsequent to that date; (B) in the case of an underground
42 storage tank in use prior to November 8, 1984, owned such tank
43 immediately prior to the discontinuation of its use; (C) is or was the owner

1 of any aboveground storage tank which was in use on July 1, 1992, or
2 brought into use subsequent to that date; or (D) in the case of an
3 aboveground storage tank in use prior to July 1, 1992, owned such tank
4 immediately prior to the discontinuation of its use.

5 (2) Owner does not include: (A) A person who holds an interest in a
6 petroleum storage tank solely for financial security, unless through
7 foreclosure or other related actions the holder of a security interest has
8 taken possession of the storage tank; and (B) any city or county which
9 obtains a storage tank or regulated substance as a result of tax foreclosure
10 proceedings.

11 (k) "Person" means an individual, trust, firm, joint venture,
12 consortium, joint-stock company, corporation, partnership, association,
13 state, interstate body, municipality, commission, political subdivision or
14 any agency, board, department or bureau of this state or of any other state
15 or of the United States government.

16 (l) "Petroleum" means petroleum, including crude oil or any fraction
17 thereof, which is liquid at standard conditions of temperature and pressure,
18 60 degrees Fahrenheit and 14.7 pound per square inch absolute, including,
19 but not limited to, gasoline, gasohol, diesel fuel, fuel oils, kerosene and
20 biofuels.

21 (m) "Petroleum product" means petroleum other than crude oil.

22 (n) "Petroleum storage tank" means any storage tank used to contain
23 an accumulation of petroleum.

24 (o) "Regulated substance" means petroleum or any element,
25 compound, mixture, solution or substance defined in section 101(14) of
26 the comprehensive environmental response, compensation and liability act
27 of 1980 of the United States as in effect on January 1, 1989, but not if
28 regulated as a hazardous waste under the resource conservation and
29 recovery act of 1976, 42 U.S.C. §§ 6921 through 6939b, as in effect on
30 January 1, 1989.

31 (p) "Release" means any spilling, leaking, emitting, discharging,
32 escaping, leaching or disposing from a storage tank into groundwater,
33 surface water or soils.

34 (q) "Removal" means the process of removing or disposing of a
35 storage tank, no longer in service, and also shall mean the process of
36 abandoning such tank, in place.

37 (r) "Repair" means *to restore a tank, pipe, spill prevention equipment,*
38 *overflow prevention equipment, corrosion protection equipment, release*
39 *detection equipment or other UST system component that has caused a*
40 *release or a suspected release of product from the UST system or has*
41 *failed to function properly. The term includes modification or correction of*
42 *a storage tank through such means as relining, replacement of piping,*
43 *valves, fillpipes, vents and liquid level monitoring systems, and the*

1 maintenance and inspection of the efficacy of cathodic protection devices,
2 but the term does not include the process of conducting a tightness test to
3 establish the integrity of a tank.

4 (s) "Secretary" means the secretary of health and environment.

5 (t) "Storage tank" means any one or combination of tanks used to
6 contain an accumulation of regulated substances, the associated piping and
7 ancillary equipment and the containment system.

8 (u) "Tank" means a stationary device designed to contain an
9 accumulation of substances and constructed of non-earthen materials such
10 as concrete, steel or plastic, that provide structural support.

11 (v) "Terminal" means a bulk storage facility for storing petroleum
12 supplied by pipeline or marine vessel.

13 (w) "Trade secret" has the same meaning as provided in K.S.A. 60-
14 3320, and amendments thereto.

15 (x) "Underground storage tank" means any storage tank in which
16 10% or more of the tank volume, including volume of the piping, is below
17 the surface of the ground. Underground storage tank does not include any
18 storage tank situated in an underground area, such as a basement, cellar,
19 mine working, drift, shaft or tunnel, if the storage tank is situated upon or
20 above the surface of the floor.

21 (y) "Underground storage tank contractor" or "contractor" means a
22 business which holds itself out as being qualified to install, repair or
23 remove underground storage tanks.

24 (z) "Underground fund" means the underground petroleum storage
25 tank release trust fund.

26 (aa) "Underground storage tank installer" or "installer" means an
27 individual who has an ownership interest or exercises a management or
28 supervisory position with an underground storage tank contractor. The
29 term shall include the crew chief, expeditor, engineer, supervisor, leadman
30 or foreman in charge of a tank installation project.

31 (bb) "UST redevelopment fund" means the Kansas UST property
32 redevelopment trust fund.

33 (cc) "Abandoned underground storage tank" means an underground
34 storage tank that exhibits one or more of the following conditions:

35 (1) Is not in use for more than three months;

36 (2) does not have a current tank permit issued by the department; or

37 (3) has been temporarily closed, in accordance with department
38 guidelines, for more than 12 months.

39 (dd) "Property owner" means for the purposes of the UST
40 redevelopment fund, a person who owns real property on which an
41 abandoned underground storage tank is located.

42 (ee) *"Installation of a new motor fuel dispenser system" means the*
43 *installation of a new motor fuel dispenser and the equipment necessary to*

1 connect the dispenser to the underground storage tank system, but does
2 not mean the installation of a motor fuel dispenser installed separately
3 from the equipment needed to connect the dispenser to the underground
4 storage tank system.

5 (ff) "Replaced" means: (1) For a tank, to remove a tank and install
6 another tank; and

7 (2) for piping, to remove 50% or more of piping and install other
8 piping, excluding connectors, connected to a single tank. For tanks with
9 multiple piping runs, this definition applies independently to each piping
10 run.

11 (gg) "Secondary containment" or "secondarily contained" means a
12 release prevention and release detection system for a tank or piping. These
13 systems have an inner and outer barrier with an interstitial space that is
14 monitored for a release of regulated substances from the underground
15 storage tank and piping.

16 (hh) "Safe suction piping" means underground piping that conveys
17 regulated substances under suction, is designed and constructed to
18 operate at less than atmospheric pressure, is sloped so that the contents of
19 the pipe drain back into the storage tank if the suction is released and
20 contains only one check valve in each suction line that is located directly
21 below and as close as practical to the suction pump.

22 (ii) "Under-dispenser containment" means containment underneath a
23 dispenser system designed to prevent dispenser system leaks from reaching
24 soil or groundwater. The containment must be: (1) Liquid tight on its
25 sides, bottom and at any penetrations;

26 (2) compatible with the substance conveyed by the piping; and

27 (3) allow for visual inspection and access to the components in the
28 containment or be monitored for a release of regulated substances from
29 dispenser and piping.

30 Sec. 3. K.S.A. 2012 Supp. 65-34,103 is hereby amended to read as
31 follows: 65-34,103. Except as provided in K.S.A. 65-34,119, and
32 amendments thereto, the Kansas storage tank act shall not apply to:

33 (a) Farm or residential tanks of 1,100 gallons or less capacity used for
34 storing motor fuel for noncommercial purposes;

35 (b) tanks used for storing heating oil for consumptive use on a single
36 family residential premise where stored;

37 (c) a pipeline facility, including gathering lines, regulated under:

38 (1) ~~The natural gas pipeline safety act of 1968; and~~

39 ~~(2) the hazardous liquid pipeline safety act of 1979~~ U.S.C. 49
40 chapters 601 and 603 and which is determined by the secretary of
41 transportation to be connected to a pipeline, or to be operated or intended
42 to be capable of operating at pipeline pressure, or as an integral part of a
43 pipeline; or

- 1 ~~(3)~~ (2) state laws relating to intrastate pipelines comparable to the
2 provisions of law referred to in ~~subsections~~ *subsection (c)(1) and (2)*;
3 (d) surface impoundments, pits, ponds, septic tanks or lagoons;
4 (e) storm water or waste water collection systems;
5 (f) flow-through process tanks;
6 (g) liquid traps, storage tanks or associated gathering lines directly
7 related to oil or gas production and gathering operations;
8 (h) aboveground storage tanks of agricultural materials regulated by
9 the Kansas department of agriculture;
10 (i) aboveground storage tanks located at a petroleum refining facility;
11 (j) pipeline terminals;
12 (k) aboveground tanks of less than 660 gallons capacity;
13 (l) storage tanks associated with oil and natural gas production; and
14 (m) electrical equipment which has as part of its design a storage tank
15 containing one or more regulated substances.
- 16 Sec. 4. K.S.A. 2012 Supp. 65-34,102 and 65-34,103 are hereby
17 repealed.
- 18 Sec. 5. This act shall take effect and be in force from and after its
19 publication in the statute book.