

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; **Such system** shall include under-dispenser spill containment. The  
32 containment must be: (A) Liquid tight on its sides, bottom and at any  
33 penetrations;

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

35 (C) designed to allow for visual inspection and access to the  
36 components in the containment or to be monitored for a release of

1 regulated substances from dispenser and piping.

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

4 (a) "Aboveground storage tank" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 valves, fillpipes, vents and liquid level monitoring systems, and the  
2 maintenance and inspection of the efficacy of cathodic protection devices,  
3 but the term does not include the process of conducting a tightness test to  
4 establish the integrity of a tank.

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

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

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

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

14 (w) "Trade secret" has the same meaning as provided in K.S.A. 60-  
15 3320, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

43 (ee) *"Installation of a new motor fuel dispenser system" means the*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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