

Senate Substitute for HOUSE BILL No. 2600

By Committee on Public Health and Welfare

3-19

1 AN ACT concerning the department of health and environment; relating to
2 powers, duties and functions thereof; providing for the assessment of
3 fees for noncontiguous sites under the nuclear energy development and
4 radiation control act; directing the secretary of health and environment
5 to study and investigate maternal deaths in the state of Kansas; access
6 to records; confidentiality; amending K.S.A. 48-1606 and K.S.A. 2017
7 Supp. 65-177 and repealing the existing sections.
8

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

10 Section 1. K.S.A. 48-1606 is hereby amended to read as follows: 48-
11 1606. (a) The secretary of health and environment shall be responsible for
12 state radiation control.

13 (b) The secretary, for the protection of the public health and safety,
14 shall develop programs for evaluation of hazards associated with use of
15 sources of radiation.

16 (c) The secretary may:

17 (1) Advise, consult and cooperate with other agencies of the state, the
18 federal government, other states and interstate agencies, political
19 subdivisions and with groups concerned with control of sources of
20 radiation;

21 (2) accept and administer grants or gifts, conditional or otherwise, in
22 furtherance of its functions, from the federal government and from other
23 sources, public or private;

24 (3) collect and disseminate information relating to control of sources
25 of radiation;

26 (4) encourage, participate in, or conduct studies, investigations,
27 training, research and demonstrations relating to control of sources of
28 radiation;

29 (5) in accordance with the laws of the state, employ, compensate and
30 prescribe the powers and duties of such individuals as may be necessary to
31 carry out the responsibilities set forth herein;

32 (6) institute training programs for the purpose of qualifying personnel
33 to carry out the provisions of this act, and make personnel available for
34 participation in any program or programs of the federal government, other
35 states or interstate agencies in furtherance of the purposes of this act;

36 (7) fix, charge and collect fees for licenses and registrations, and

1 renewals thereof, issued under the nuclear energy development and
 2 radiation control act to cover all or any part of the cost of administering
 3 such act; and

4 (8) receive any moneys in the form of grants, gifts, licensing or
 5 registration fees, or as paid under an agreement with the secretary or as
 6 reimbursement for remedial action costs.

7 (d) Subject to the following limitations, the secretary may assess a fee
 8 for the following categories of radiation protection services:

9 Fee Category:

10 **1. Special nuclear material**

- 11 A. Licenses for possession and use of special nuclear material in
 12 sealed sources contained in devices used in industrial
 13 measuring systems
 14 Maximum annual fee.....\$950
- 15 B. Any licenses not otherwise specified in this table for
 16 possession and use of special nuclear material, except licenses
 17 authorizing special nuclear material in unsealed form in
 18 combination that would constitute a critical mass
 19 Maximum annual fee.....\$2,250

20 **2. Source material**

- 21 A. Licenses that authorize only the possession, use and/or
 22 installation of source material for shielding
 23 Maximum annual fee.....\$365
- 24 B. All other source material licenses not otherwise specified in
 25 this table
 26 Maximum annual fee.....\$5,700

27 **3. Radioactive or byproduct material**

- 28 A. Licenses of broad scope for possession and use of radioactive
 29 or byproduct material issued for processing or manufacturing
 30 of items containing radioactive or byproduct material for
 31 commercial distribution
 32 Maximum annual fee.....\$10,900
- 33 B. Other licenses for possession and use of radioactive or
 34 byproduct material issued for processing or manufacturing of
 35 items containing radioactive or byproduct material for
 36 commercial distribution
 37 Maximum annual fee.....\$3,300
- 38 C. Licenses authorizing the processing or manufacturing and
 39 distribution or redistribution of radiopharmaceuticals,
 40 generators, reagent kits and/or sources and devices containing
 41 radioactive or byproduct material. This category also includes
 42 the possession and use of source material for shielding when
 43 included on the same license

1		Maximum annual fee.....	\$5,450
2	D.	Licenses and approvals authorizing distribution or	
3		redistribution of radiopharmaceuticals, generators, reagent kits	
4		and/or sources or devices not involving processing of	
5		radioactive or byproduct material. This category also includes	
6		the possession and use of source material for shielding when	
7		included on the same license	
8		Maximum annual fee.....	\$2,350
9	E.	Licenses for possession and use of radioactive or byproduct	
10		material in sealed sources for irradiation of materials in which	
11		the source is not removed from its shield (self-shielded units)	
12		Maximum annual fee.....	\$1,800
13	F.	Licenses for possession and use of less than 10,000 curies of	
14		radioactive or byproduct material in sealed sources for	
15		irradiation of materials in which the source is exposed for	
16		irradiation purposes. This category also includes underwater	
17		irradiators for irradiation of materials in which the source is	
18		not exposed for irradiation purposes	
19		Maximum annual fee.....	\$3,300
20	G.	Licenses for possession and use of 10,000 curies or more of	
21		radioactive or byproduct material in sealed sources for	
22		irradiation of materials in which the source is exposed for	
23		irradiation purposes. This category also includes underwater	
24		irradiators for irradiation of materials in which the source is	
25		not exposed for irradiation purposes	
26		Maximum annual fee.....	\$12,050
27	H.	Licenses issued to distribute items containing radioactive or	
28		byproduct material that require device review to persons	
29		exempt from licensing, except specific licenses authorizing	
30		redistribution of items that have been authorized for	
31		distribution to persons exempt from licensing	
32		Maximum annual fee.....	\$3,000
33	I.	Licenses issued to distribute items containing radioactive or	
34		byproduct material or quantities of radioactive or byproduct	
35		material that do not require device review to persons exempt	
36		from licensing, except for specific licenses authorizing	
37		redistribution of items that have been authorized for	
38		distribution to persons exempt from licensing	
39		Maximum annual fee.....	\$3,050
40	J.	Licenses issued to distribute items containing radioactive or	
41		byproduct material that require sealed source and/or device	
42		review to persons generally licensed, except specific licenses	
43		authorizing redistribution of items that have been authorized	

1		for distribution to persons generally licensed	
2		Maximum annual fee.....	\$1,100
3	K.	Licenses issued to distribute items containing radioactive or	
4		byproduct material or quantities of radioactive or byproduct	
5		material that do not require sealed source and/or device review	
6		to persons generally licensed, except specific licenses	
7		authorizing redistribution of items that have been authorized	
8		for distribution to persons generally licensed	
9		Maximum annual fee.....	\$700
10	L.	Licenses of broad scope for possession and use of radioactive	
11		or byproduct material issued for research and development that	
12		do not authorize commercial distribution	
13		Maximum annual fee.....	\$5,900
14	M.	Other licenses for possession and use of radioactive or	
15		byproduct material issued for research and development that	
16		do not authorize commercial distribution	
17		Maximum annual fee.....	\$2,800
18	N.	Licenses that authorize services for other licensees, except	
19		(1)Licenses that authorize only calibration and/or leak testing	
20		services are subject to the fees specified in fee category 3P;	
21		and (2) licenses that authorize waste disposal services are	
22		subject to the fees specified in fee categories 4A, 4B and 4C	
23		Maximum annual fee.....	\$3,050
24	O.	Licenses for possession and use of radioactive or byproduct	
25		material for industrial radiography operations. This category	
26		also includes the possession and use of source material for	
27		shielding when authorized on the same license	
28		Maximum annual fee.....	\$6,100
29	P.	All other specific radioactive or byproduct material licenses	
30		not otherwise specified in this table	
31		Maximum annual fee.....	\$1,250
32	Q.	Registration of generally licensed devices or sources	
33		Maximum annual fee.....	\$225
34	4. Waste disposal and processing		
35	A.	Licenses authorizing the possession and use of waste	
36		radioactive, by-product, source or special nuclear material for a	
37		commercial low-level radioactive waste disposal facility.	
38		Maximum annual fee.....	Full cost
39	i.	Amendment to license concerning safety and	
40		environmental questions	
41		Maximum amendment fee.....	Full cost
42	ii.	Amendment to license concerning administration	
43		questions (no safety or environment questions)	

- 1 Maximum amendment fee.....Full cost
- 2 B. Licenses specifically authorizing the receipt of waste
- 3 radioactive or byproduct material, source material or special
- 4 nuclear material from other persons for the purpose of
- 5 packaging or repackaging the material. The licensee will
- 6 dispose of the material by transfer to another person authorized
- 7 to receive or dispose of the material
- 8 Maximum annual fee.....\$5,150
- 9 C. Licenses specifically authorizing the receipt of prepackaged
- 10 waste radioactive or byproduct material, source material or
- 11 special nuclear material from other persons. The licensee will
- 12 dispose of the material by transfer to another person authorized
- 13 to receive or dispose of the material
- 14 Maximum annual fee.....\$3,700
- 15 **5. Well logging**
- 16 A. Licenses for possession and use of radioactive or byproduct
- 17 material, source material and/or special nuclear material for
- 18 well logging, well surveys and tracer studies other than field
- 19 flooding tracer studies
- 20 Maximum annual fee.....\$2,350
- 21 B. Licenses for possession and use of radioactive or byproduct
- 22 material for field flooding tracer studies
- 23 Maximum annual fee.....\$2,350
- 24 **6. Nuclear laundries**
- 25 A. Licenses for commercial collection and laundry of items
- 26 contaminated with radioactive or byproduct material, source
- 27 material or special nuclear material
- 28 Maximum annual fee.....\$11,550
- 29 **7. Medical licenses**
- 30 A. Licenses issued for human use of radioactive or byproduct
- 31 material, source material or special nuclear material in sealed
- 32 sources contained in teletherapy devices. This category also
- 33 includes the possession and use of source material for shielding
- 34 when authorized on the same license
- 35 Maximum annual fee.....\$5,500
- 36 B. Licenses of broad scope issued to medical institutions or two
- 37 or more physicians authorizing research and development,
- 38 including human use of radioactive or byproduct material
- 39 except licenses for radioactive or byproduct material, source
- 40 material or special nuclear material in sealed sources contained
- 41 in teletherapy devices. This category also includes the
- 42 possession and use of source material for shielding when
- 43 authorized on the same license. Separate annual fees will not

- 1 be assessed for pacemaker licenses issued to medical
 2 institutions who also hold nuclear medicine licenses under
 3 categories 7B or 7C
 4 Maximum annual fee.....\$12,350
- 5 C. Other license issued for human use of radioactive or byproduct
 6 material, source material and/or special nuclear material except
 7 licenses for radioactive or byproduct material, source material
 8 or special nuclear material in sealed sources contained in
 9 teletherapy devices. This category also includes the possession
 10 and use of source material for shielding when authorized on
 11 the same license. Separate annual fees will not be assessed for
 12 pacemaker licenses issued to medical institutions who also
 13 hold nuclear medicine licenses under categories 7B or 7C
 14 Maximum annual fee.....\$2,300
- 15 **8. Civil defense**
- 16 A. Licenses for possession and use of radioactive or byproduct
 17 material, source material or special nuclear material for civil
 18 defense activities
 19 Maximum annual fee.....\$650
- 20 **9. Device, product or sealed source safety evaluation**
- 21 A. Safety evaluation review of devices or products containing
 22 radioactive or byproduct material, source material or special
 23 nuclear material, except reactor fuel devices, for commercial
 24 distribution. This fee shall apply to each device or product
 25 Maximum annual fee.....\$3,500
- 26 B. Safety evaluation review of devices or products containing
 27 radioactive or byproduct material, source material or special
 28 nuclear material manufactured in accordance with the unique
 29 specifications of, and for use by, a single applicant, except
 30 reactor fuel devices. This fee shall apply to each device or
 31 product
 32 Maximum annual fee.....\$3,500
- 33 C. Safety evaluation of sealed sources containing radioactive or
 34 byproduct material, source material or special nuclear material,
 35 except reactor fuel, for commercial distribution. This fee shall
 36 apply to each device or product
 37 Maximum annual fee.....\$1,100
- 38 D. Registrations issued for the safety evaluation of sealed sources
 39 containing radioactive or byproduct material, source material
 40 or special nuclear material, manufactured in accordance with
 41 the unique specifications of, and for use by, a single applicant.
 42 This fee shall apply to each device or product
 43 Maximum annual fee.....\$365

1 **10.Special projects**

- 2 A. Hourly rate for radiation control program activities for which
 3 there is not an established fee category or for radiation
 4 protection services provided to nonlicensees and nonregistrants
 5 Maximum hourly rate.....\$79

6 **11.Reciprocity**

- 7 A. Licensees who conduct activities under a reciprocal agreement
 8 Maximum annual fee.....\$750
 9 B. Registrants who conduct activities under a reciprocal
 10 agreement
 11 Maximum annual fee.....\$200

12 **12.X-ray machines**

- 13 A. Base registration fee per facility
 14 Maximum annual fee.....\$200
 15 B. Registration fee for each x-ray tube at a facility. This fee is in
 16 addition to the base registration fee
 17 Maximum annual fee per x-ray tube.....\$50

18 **13.Accelerators**

- 19 A. Particle accelerators
 20 Maximum annual fee.....\$300

21 **14.New license and registration applications**

- 22 A. New license and registration applications. Equal to annual fee
 23 of applicable category

24 For licenses or registrations that authorize more than one activity, an
 25 annual fee shall be assessed for each of the applicable categories.

26 (e) (1) *An additional fee up to 50% of the maximum annual fee shall*
 27 *be assessed for each noncontiguous site where radioactive material is*
 28 *stored or used under the same license, per category.*

29 (2) *As used in this subsection, "noncontiguous site" means a location*
 30 *more than one mile away from the main safety office where licensure*
 31 *records are maintained.*

32 (f) The secretary shall adopt rules and regulations fixing the fees for
 33 the radiation protection services provided under this act and shall
 34 periodically increase or decrease such fees consistent with the need to
 35 cover all or any part of the cost of administering such act.

36 Sec. 2. K.S.A. 2017 Supp. 65-177 is hereby amended to read as
 37 follows: 65-177. (a) ~~The term~~ (1) "Data," as used in K.S.A. 65-177
 38 through 65-179, and amendments thereto, ~~shall be construed to include~~
 39 *includes* all facts, information, records of interviews, written reports,
 40 statements, notes; or memoranda secured in connection with an authorized
 41 medical research study.

42 (2) *"Maternal death" means the death of any woman from any cause*
 43 *while pregnant or within one calendar year of the end of any pregnancy,*

1 regardless of the duration of the pregnancy or the site of the end of the
2 pregnancy.

3 (b) (1) The secretary of health and environment shall have access to
4 all law enforcement investigative information regarding a maternal death
5 in Kansas, any autopsy records and coroner's investigative records
6 relating to the death, any medical records of the mother and any records of
7 the Kansas department for children and families or any other state social
8 service agency that has provided services to the mother.

9 (2) (A) The secretary may apply to the district court for the issuance
10 of, and the district court may issue, a subpoena to compel the production
11 of any books, records or papers relevant to the cause of any maternal
12 death being investigated by the secretary. Any books, records or papers
13 received by the secretary pursuant to the subpoena shall be confidential
14 and privileged information and not subject to disclosure.

15 (B) The provisions of this paragraph providing for confidentiality of
16 records shall expire on July 1, 2023, unless the legislature acts to reenact
17 such provisions. The legislature shall review the provisions of this
18 paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to
19 July 1, 2023.

20 (c) The secretary of health and environment shall:

21 (1) Identify maternal death cases;

22 (2) review medical records and other relevant data;

23 (3) contact family members and other affected or involved persons to
24 collect additional relevant data;

25 (4) consult with relevant experts to evaluate the records and data
26 collected;

27 (5) make determinations regarding the preventability of maternal
28 deaths;

29 (6) develop recommendations and actionable strategies to prevent
30 maternal deaths; and

31 (7) disseminate findings and recommendations to the legislature,
32 healthcare providers, healthcare facilities and the general public.

33 (d) (1) Healthcare providers licensed pursuant to chapters 65 and 74
34 of the Kansas Statutes Annotated, and amendments thereto, medical care
35 facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes
36 Annotated, and amendments thereto, maternity centers licensed pursuant
37 to article 5 of chapter 65 of the Kansas Statutes Annotated, and
38 amendments thereto, and pharmacies licensed pursuant to article 16 of
39 chapter 65 of the Kansas Statutes Annotated, and amendments thereto,
40 shall provide reasonable access to all relevant medical records associated
41 with a maternal death case under review by the secretary.

42 (2) A healthcare provider, medical care facility, maternity center or
43 pharmacy providing access to medical records pursuant to this section

1 shall not be held liable for civil damages or be subject to criminal or
2 disciplinary administrative action for good faith efforts to provide such
3 records.

4 (e) (1) Information, records, reports, statements, notes, memoranda
5 or other data collected pursuant to this section shall be privileged and
6 confidential and shall not be admissible as evidence in any action of any
7 kind in any court or before another tribunal, board, agency or person.
8 Such information, records, reports, statements, notes, memoranda or other
9 data shall not be exhibited nor their contents disclosed in any way, in
10 whole or in part, by any officer or representative of the department of
11 health and environment or any other person, except as may be necessary
12 for the purpose of furthering the investigation of the case to which they
13 relate. No person participating in such investigation shall disclose, in any
14 manner, the information so obtained.

15 (2) The provisions of this subsection providing for confidentiality of
16 records shall expire on July 1, 2023, unless the legislature acts to reenact
17 such provisions. The legislature shall review the provisions of this
18 subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to
19 July 1, 2023.

20 (f) (1) All proceedings and activities of the secretary or
21 representatives of the secretary under this section, opinions of the
22 secretary or representatives of the secretary formed as a result of such
23 proceedings and activities and records obtained, created or maintained
24 pursuant to this section, including records of interviews, written reports
25 and statements procured by the secretary or any other person, agency or
26 organization acting jointly or under contract with the department of health
27 and environment in connection with the requirements of this section, shall
28 be confidential and not subject to the provisions of the open records act or
29 the open meetings act or subject to subpoena, discovery or introduction
30 into evidence in any civil or criminal proceeding. Nothing in this section
31 shall be construed to limit or otherwise restrict the right to discover or use
32 in any civil or criminal proceeding any document or record that is
33 available and entirely independent of proceedings and activities of the
34 secretary or representatives of the secretary under this section.

35 (2) The secretary or representatives of the secretary shall not be
36 questioned in any civil or criminal proceeding regarding the information
37 presented in or opinions formed as a result of an investigation. Nothing in
38 this section shall be construed to prevent the secretary or representatives
39 of the secretary from testifying to information obtained independently of
40 this section or that is public information.

41 (3) The provisions of this subsection providing for confidentiality of
42 records shall expire on July 1, 2023, unless the legislature acts to reenact
43 such provisions. The legislature shall review the provisions of this

1 *subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to*
2 *July 1, 2023.*

3 (g) *Reports of aggregate non-individually identifiable data shall be*
4 *compiled on a routine basis for distribution in an effort to further study the*
5 *causes and problems associated with maternal deaths. Reports shall be*
6 *distributed to healthcare providers and medical care facilities and other*
7 *persons necessary to reduce the maternal death rate.*

8 (h) The secretary of health and environment shall receive data
9 secured in connection with medical research studies conducted for the
10 purpose of reducing morbidity or mortality from maternal, perinatal and
11 anesthetic causes. Such studies may be conducted by the secretary of
12 health and environment and staff or with other qualified persons, agencies
13 or organizations. If such studies are conducted with any funding not
14 provided by the state of Kansas, then the source of such funding shall be
15 clearly identified in such study. Where authorization to conduct such a
16 study is granted by the secretary of health and environment, all data
17 voluntarily made available to the secretary of health and environment in
18 connection with such study shall be treated as confidential and shall be
19 used solely for purposes of medical research. Research files and opinions
20 expressed upon the evidence found in such research shall not be
21 admissible as evidence in any action in any court or before any other
22 tribunal, except that statistics or tables resulting from such data shall be
23 admissible and may be received as evidence. This section shall not affect
24 the right of any patient or such patient's guardians, representatives or heirs
25 to require hospitals, physicians, sanatoriums, rest homes, nursing homes or
26 other persons or agencies to furnish such patient's hospital record to such
27 patient's representatives upon written authorization, or the admissibility in
28 evidence thereof.

29 (e)(i) No employee of the secretary of health and environment shall
30 interview any patient named in any such report, nor any relative of any
31 such patient, unless otherwise provided in K.S.A. 65-2422d, and
32 amendments thereto. Nothing in this section shall prohibit the publication
33 by the secretary of health and environment or a duly authorized
34 cooperating person, agency or organization, of final reports or statistical
35 compilations derived from morbidity or mortality studies, which reports or
36 compilations do not identify individuals, associations, corporations or
37 institutions which were the subjects of such studies, or reveal sources of
38 information.

39 Sec. 3. K.S.A. 48-1606 and K.S.A. 2017 Supp. 65-177 are hereby
40 repealed.

41 Sec. 4. This act shall take effect and be in force from and after its
42 publication in the statute book.