

HOUSE BILL No. 2549

By Representative Brown

12-9

9 AN ACT concerning the public health and welfare; relating to the dis-
10 charge of sewage; relating to the powers and duties of the secretary of
11 health and environment; amending K.S.A. 65-159 and 65-164 and re-
12 pealing the existing sections.
13

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

15 Section 1. K.S.A. 65-159 is hereby amended to read as follows: 65-
16 159. The secretary of health and environment and the county or joint
17 boards of health shall have the power and authority to examine into all
18 nuisances, sources of filth and causes of sickness that in their opinion may
19 be injurious to the health of the inhabitants within any county or munic-
20 ipality in this state. Whenever any such nuisance, source of filth or cause
21 of sickness shall be found to exist on any *public easement*, private property
22 or upon any watercourse in this state, the secretary of health and envi-
23 ronment or county or joint boards of health shall have the power and
24 authority to order, in writing, the owner or occupant thereof at ~~his or her~~
25 ~~own~~ *the owner's or occupant's* expense to remove the nuisance, source
26 of filth or cause of sickness within ~~twenty-four (24)~~ 24 hours, or within
27 such reasonable time thereafter as such secretary or such county or joint
28 board may order; ~~and~~. If the owner or occupant shall fail to obey such
29 order, such owner or occupant upon conviction shall be fined not less
30 than ~~ten dollars (\$10)~~ \$10 nor more than ~~one hundred dollars (\$100)~~
31 \$100, and each day's continuance of such nuisance, source of filth or cause
32 of sickness, after the owner or occupant thereof shall have been notified
33 to remove the nuisance, source of filth or cause of sickness, shall be a
34 separate offense.

35 Sec. 2. K.S.A. 65-164 is hereby amended to read as follows: 65-164.
36 (a) No person, company, corporation, institution or municipality shall
37 place or permit to be placed or discharge or permit to flow into any of
38 the waters of the state *or onto other property* any sewage, except as here-
39 inafter provided. This act shall not prevent the discharge of sewage from
40 any public sewer system owned and maintained by a municipality or sew-
41 erage company, if such sewer system was in operation and was discharging
42 sewage into the waters of the state on March 20, 1907, but this exception
43 shall not permit the discharge of sewage from any sewer system that has

1 been extended subsequent to such date, nor shall it permit the discharge
2 of any sewage which, upon investigation by the secretary of health and
3 environment as hereinafter provided, is found to be polluting the waters
4 of the state *or other property* in a manner prejudicial to the health of the
5 inhabitants thereof.

6 (b) For the purposes of this act, "sewage" means any substance that
7 contains any of the waste products or excrementitious or other discharges
8 from the bodies of human beings or animals, or chemical or other wastes
9 from domestic, manufacturing or other forms of industry.

10 (c) (1) Whenever a complaint is made to the secretary of health and
11 environment by the mayor of any city of the state, by a local health officer
12 or by a county or joint board of health, complaining of the pollution or
13 of the polluted condition of any of the waters of the state situated within
14 the county within which the city, local health officer or county or joint
15 board of health is located, it shall be the duty of the secretary of health
16 and environment to cause an investigation of the pollution or the polluted
17 condition ~~complained of~~. Also, whenever the secretary of health and en-
18 vironment otherwise has reason to believe that any of the waters of the
19 state are being polluted in a manner prejudicial to the health of any of
20 the inhabitants of the state, the secretary may initiate an investigation of
21 such pollution *or polluted condition*.

22 (2) *Whenever a complaint is made to the secretary of health and en-*
23 *vironment by the owner of any property complaining of the pollution or*
24 *of the polluted condition of such property, it shall be the duty of the*
25 *secretary of health and environment to cause an investigation of such*
26 *pollution or polluted condition. Also, whenever the secretary of health*
27 *and environment otherwise has reason to believe that any property is*
28 *being polluted in a manner prejudicial to the health of any of the inhab-*
29 *itants of the state, the secretary may initiate an investigation of such*
30 *pollution or polluted condition.*

31 (d) Whenever an investigation is undertaken by the secretary of
32 health and environment, under subsection (c), it shall be the duty of any
33 person, company, corporation, institution or municipality concerned in
34 such pollution to furnish, on demand, to the secretary of health and en-
35 vironment such information as required relative to the amount and char-
36 acter of the polluting material discharged ~~into the waters~~ by such person,
37 company, corporation, institution or municipality. If the secretary of
38 health and environment finds that any ~~of the waters of the state have~~
39 ~~been or are being polluted in a manner~~ *such pollution is* prejudicial to
40 the health of any of the inhabitants of the state, the secretary of health
41 and environment shall have the authority to make an order requiring: (1)
42 Such pollution to cease within a reasonable time; (2) requiring such man-
43 ner of treatment or of disposition of the sewage or other polluting material

1 as, in the secretary's judgment, is necessary to prevent the future pollution
2 ~~of such waters~~; or (3) both. It shall be the duty of the person, company,
3 corporation, institution or municipality to whom such order is directed to
4 fully comply with the order of the secretary of health and environment.
5 (e) Any person, company, corporation, institution or municipality
6 upon whom an order has been imposed pursuant to subsection (d) may
7 appeal to the secretary within 30 days after service of the order. If ap-
8 pealed, a hearing shall be conducted in accordance with the provisions of
9 the Kansas administrative procedure act.
10 Sec. 3. K.S.A. 65-159 and 65-164 are hereby repealed.
11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.