

**SENATE BILL No. 170**

By Committee on Utilities

2-13

1 AN ACT concerning the Kansas department of health and environment;  
2 relating to the Kansas asbestos control program; fees and civil  
3 penalties; deposit in the air quality fee fund; amending K.S.A. 65-5309  
4 and 65-5314 and repealing the existing sections.

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

7 Section 1. K.S.A. 65-5309 is hereby amended to read as follows: 65-  
8 5309. (a) The secretary shall establish by rules and regulations a  
9 reasonable schedule of fees for licensure and for project evaluations under  
10 this act. The fee schedule shall be established on the basis of determination  
11 by the secretary of the amount of revenue required for administration of  
12 the provisions of this act.

13 (b) The secretary shall remit all moneys received from the fees  
14 established pursuant to this section to the state treasurer in accordance with  
15 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
16 of each such remittance, the state treasurer shall deposit the entire amount  
17 in the state treasury to the credit of the ~~state general~~ *air quality fee* fund.

18 Sec. 2. K.S.A. 65-5314 is hereby amended to read as follows: 65-  
19 5314. (a) Any business entity which violates any provision of this act or  
20 any rules and regulations adopted under this act, in addition to any other  
21 penalty provided by law, may incur a civil penalty imposed under  
22 subsection (b) in an amount not to exceed \$5,000 for each violation and, in  
23 the case of a continuing violation, every day such violation continues shall  
24 be deemed a separate violation.

25 (b) The secretary, upon a finding that a business entity has violated  
26 any provision of this act or any rules and regulations adopted under this  
27 act, may impose a civil penalty within the limits provided in this section  
28 upon such business entity, which civil penalty shall be in an amount to  
29 constitute an actual and substantial economic deterrent to the violation for  
30 which the civil penalty is assessed.

31 (c) No civil penalty shall be imposed under this section except upon  
32 the written order of the secretary after notification and hearing, if a hearing  
33 is requested, in accordance with the provisions of the Kansas  
34 administrative procedure act.

35 (d) Any business entity aggrieved by an order of the secretary made  
36 under this section may appeal such order to the district court in the manner

1 provided by the Kansas judicial review act. An appeal to the district court  
2 or to an appellate court shall not stay the payment of the civil penalty. If  
3 the court sustains the appeal, the secretary shall refund forthwith the  
4 payment of any civil penalty to the business entity with interest at the rate  
5 established by K.S.A. 16-204, and amendments thereto, from the date of  
6 payment of the penalty.

7 (e) Any penalty recovered pursuant to the provisions of this section  
8 shall be remitted to the state treasurer, deposited in the state treasury and  
9 credited to the ~~state general~~ *air quality fee* fund.

10 Sec. 3. K.S.A. 65-5309 and 65-5314 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.