

**SENATE BILL No. 182**

By Committee on Agriculture and Natural Resources

2-14

1 AN ACT concerning water; relating to water measuring devices;  
2 technicians; inspections; liability of water right owners; amending  
3 K.S.A. 82a-706c and K.S.A. 2018 Supp. 82a-737 and repealing the  
4 existing sections.

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

7 Section 1. K.S.A. 82a-706c is hereby amended to read as follows:  
8 82a-706c. (a) The chief engineer shall have full authority to:

9 (1) Require any water user to install meters, gages, *other water*  
10 *measuring devices* or other measuring devices, ~~which devices he or she or~~  
11 ~~his or her agents that the chief engineer or the chief engineer's agents~~ may  
12 read at any time, ~~and to;~~

13 (2) require any water user to report the reading of such meters, gages,  
14 *other water measuring devices* or other measuring devices at reasonable  
15 intervals. ~~He or she shall have full authority to; and~~

16 (3) make, and ~~to~~ require any water user to make, periodic water waste  
17 and water quality checks and ~~to~~ require the user making such checks *such*  
18 *user* to report the findings thereof.

19 (b) *The chief engineer may adopt rules and regulations on:*

20 (1) *Testing and inspection of meters, gages, other water measuring*  
21 *devices or other measuring devices required by subsection (a); and*

22 (2) *tolerances and specifications for the manufacture, installation,*  
23 *examination, calibration, testing, repair, service or other adjustment of*  
24 *meters, gages, other water measuring devices or other measuring devices.*  
25 *Any such tolerance and specification shall:*

26 (A) *Be the same for new, repaired or serviced meters, gages, other*  
27 *water measuring devices or other measuring devices; and*

28 (B) *account for normal wear and tear of meters, gages, other water*  
29 *measuring devices or other measuring devices.*

30 Sec. 2. K.S.A. 2018 Supp. 82a-737 is hereby amended to read as  
31 follows: 82a-737. (a) As used in this section:

32 (1) "Chief engineer" means the chief engineer of the division of water  
33 resources of the department of agriculture.

34 (2) "Secretary" means the secretary of agriculture.

35 (3) "Person" means any individual, agent, partnership, association,  
36 corporation, trust or governmental entity. "Person" does not include the

1 *secretary or the chief engineer.*

2 (4) *"Seal" means a device used to certify that a water measuring*  
3 *device was manufactured, installed, examined, calibrated, tested, repaired,*  
4 *serviced or adjusted by a water measuring device technician and is a*  
5 *closure on a water measuring device that must be broken to remove the*  
6 *device or access the internal components of the water measuring device.*

7 (5) *"Water measuring device technician" means a person who is in*  
8 *the business of manufacturing, installing, examining, calibrating, testing,*  
9 *repairing, servicing or adjusting meters, gages, other water measuring*  
10 *devices or other measuring devices.*

11 (b) Any person who commits any of the following may incur a civil  
12 penalty as provided by this section:

13 (1) Any violation of the Kansas water appropriation act, K.S.A. 82a-  
14 701 et seq., and amendments thereto, or any rule and regulation adopted  
15 thereunder;

16 (2) any violation of an order issued pursuant to K.S.A. 82a-1038, and  
17 amendments thereto, relating to an intensive groundwater use control area;  
18 or

19 (3) any violation of a term, condition or limitation imposed by the  
20 chief engineer as authorized by law, including, but not limited to:

21 (A) Diversion of water from an unauthorized point of diversion;

22 (B) failure to limit the use of water to the authorized place of use;

23 (C) failure to submit or comply with the terms of conservation plans  
24 as required pursuant to K.S.A. 82a-733, and amendments thereto;

25 (D) failure to comply with the maximum annual quantity or rate of  
26 diversion authorized;

27 (E) failure to properly install, maintain or assure the accuracy of  
28 acceptable water ~~measurement~~ measuring devices;

29 (F) failure to comply with orders related to minimum desirable stream  
30 flow, unlawful diversion, impairment of senior water rights or waste of  
31 water; or

32 (G) failure to limit the use of water to an authorized type of use.

33 (c) *It shall not be a violation of subsection (b)(3)(D) or (E) if:*

34 (1) *The water right owner or operator had the water measuring*  
35 *device manufactured, installed, examined, calibrated, tested, repaired,*  
36 *serviced or adjusted by a water measuring device technician;*

37 (2) *the seal of such water measuring device technician is present and*  
38 *intact on the water measuring device; and*

39 (3) *the water right owner or operator did not knowingly alter or*  
40 *knowingly instruct another person to alter the water measuring device to*  
41 *inaccurately perform to the benefit of the water right owner or operator.*

42 (d) *The absence of a seal or the presence of a compromised seal on a*  
43 *water measuring device alone shall not constitute a violation of subsection*

1 *(b), and the chief engineer shall present additional evidence of an act or*  
2 *omission to prove a violation of subsection (b). The absence of a seal or*  
3 *the presence of a compromised seal on a water measuring device may be*  
4 *used to substantiate a violation of subsection (b), if it is used in*  
5 *conjunction with other evidence of an act or omission that demonstrates a*  
6 *violation of subsection (b).*

7 *(e)* The amount of the civil penalty provided for by this section shall  
8 be not less than \$100 nor more than \$1,000 per violation. In the case of a  
9 continuing violation, each day such violation continues may be deemed a  
10 separate violation. Such civil penalty may be assessed in addition to any  
11 other penalty provided by law.

12 ~~(d)~~*(f)* The chief engineer or the chief engineer's duly authorized  
13 agent, upon a finding that a person has committed a violation specified in  
14 subsection (b), may order the modification or suspension of the person's  
15 water right or use of water, in addition to any other penalty provided by  
16 law.

17 ~~(e)~~*(g)* No civil penalty or suspension or modification of a water right  
18 or use of water shall be imposed pursuant to this section except on the  
19 written order of the chief engineer or duly authorized agent of the chief  
20 engineer. Such order shall state the nature of the violation, the factual basis  
21 for the finding, the penalty to be imposed and the appropriate procedure  
22 for appeal of the order, as established by K.S.A. 2018 Supp. 82a-1901, and  
23 amendments thereto.

24 ~~(f)~~*(h)* Any person aggrieved by an order of the chief engineer, or the  
25 chief engineer's duly authorized agent, pursuant to this section may request  
26 a hearing or review as provided by K.S.A. 2018 Supp. 82a-1901, and  
27 amendments thereto, and, upon exhaustion of administrative remedies,  
28 may appeal to the district court in the manner provided by the Kansas  
29 judicial review act.

30 ~~(g)~~*(i)* The provisions of this section shall be part of and supplemental  
31 to the Kansas water appropriation act.

32 Sec. 3. K.S.A. 82a-706c and K.S.A. 2018 Supp. 82a-737 are hereby  
33 repealed.

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