

## **Pollutant Releases and Cleanup; HB 2155**

**HB 2155** replaces and updates law regarding soil and water pollutant releases and cleanup.

### ***Definitions***

The bill establishes definitions relating to the release of certain water and soil pollutants for these terms: “cleanup,” “cleanup costs,” “emergency,” “person,” “pollutant,” and “release.”

The bill excludes from the definition of “pollutant” any animal or crop waste or manure on an agricultural operation or in an agricultural facility. The bill also excludes from the definition of “release” the releases that occur as part of normal agricultural activities or when done in compliance with the conditions of a federal or state permit or in accordance with the product label.

### ***Soil and Water Pollutant Releases and Cleanup***

The bill requires, for the purpose of preventing water and soil pollution detrimental to the public health or environment, the Secretary of Health and Environment (Secretary) to:

- Adopt rules and regulations that, in the Secretary’s judgment, are necessary to respond to and report the release of a pollutant (release);
- Designate a 24-hour statewide telephone number for individuals to provide notice of any release;
- Provide minimum reportable quantities;
- Order a person who is responsible for a release to clean up such release; and
- Provide for cleanup of a release if the individual responsible cannot be identified within a reasonable period of time.

The bill also permits the Secretary to:

- Provide technical guidance, oversight, and assistance to other state agencies, political subdivisions of the State, and other persons for the cleanup of and response to a release;
- Take necessary action for the cleanup of a release if the individual responsible for the release fails to take reasonable action required by the Secretary to clean up the release; and
- Perform cleanup of a release if it poses an emergency.

### ***Cleanup Responsibilities***

The bill requires an individual responsible for a release to be responsible for the cleanup of the release. The individual is required to provide notice to the Kansas Department of Health and Environment (KDHE) if the release exceeds the minimum reportable quantities set by the Secretary. The individual is required to repay cleanup costs incurred by KDHE upon reasonably detailed notice by the Secretary or the Secretary's designee.

### ***Costs and Penalties***

The bill requires the Attorney General, in the district court of the county where the costs were incurred, to bring action for repayment of costs for a cleanup against individuals responsible for a release who fail to submit payments to KDHE promptly after notice is given.

The bill allows the Secretary to impose a penalty, not to exceed \$5,000, on an individual who violates any provision of the bill or any regulations adopted by the Secretary. For continuing violations, the maximum penalty cannot exceed \$15,000.

The bill permits the Secretary to impose a penalty only after notice of the violation and an opportunity for a hearing has been issued in writing to the individual who committed the violation. The bill requires any request for a hearing to be in writing and directed to and filed with the Secretary within 15 days after service of the order. Any hearing will be conducted in accordance with the Kansas Administrative Procedure Act.

### ***Funds***

The bill requires the Secretary to remit moneys received to the State Treasurer who, upon receipt of the funds, will deposit the entirety of the funds to the credit of the existing Emergency Response Activities Account in the Natural Resources Damages Trust Fund. The bill repeals a statute establishing the Pollutant Discharge Cleanup Fund.