AN ACT concerning labor; relating to the department of labor industrial safety and health program; public employee safety and health; establishing the public safety and health program; investigation of public employee deaths or serious injury; discrimination against employees who report dangerous conditions; amending K.S.A. 2019 Supp. 44-636 and repealing the existing section.

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

Section 1. K.S.A. 2019 Supp. 44-636 is hereby amended to read as follows: 44-636. (a) There is hereby established, within the division of industrial safety and health of the department of labor, the public employee safety and health program. The secretary of labor shall administer the program for public employers and their employees. The public employee safety and health program shall include, but not be limited to:

(1) Workplace safety and health consultations for all public employers to include on-site inspection and interviews with employees;
(2) ergonomic evaluations of employee workstations; and
(3) safety and health training to assist in the prevention of accidents and the elimination of safety and health hazards.

(b) The secretary of labor shall have power to enter any factory or mill, workshop, private works, public works or state agency or institution, mercantile establishment, laundry or any other place of business workplace where labor is or is intended to be performed for any purpose, when the same are such public works or state workplace is open or in operation, for the purpose of gathering facts and statistics such as are contemplated by this act, and to examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places and to keep a record thereof of such inspection administering the public employee safety and health program.

(c) If it shall be found upon such investigation finds that the heating, lighting, ventilation, occupant capacity or sanitary arrangement work conditions, office equipment, furniture, apparatus, facilities or environment of any such establishment or place public works or state workplace is such as to be injurious to the safety or health of persons employed or residing therein the public employees, or that the means of
egress in case of fire or other disaster are not sufficient, or that the belting, shafting, gearing, elevators, drums, saws, cogs or machinery; tools or any work equipment, apparatus or facilities in any such establishment or place are so located or are in a condition so as to be dangerous, or are not sufficiently guarded, or that the vats, pans or any other structures filled with molten metal, hot liquid or hazardous materials or substances are not surrounded with proper safeguards for preventing accidents, injury or illness to those persons in, or near them, or that the construction or condition of any building or buildings, machinery or other appurtenances in or about any place as described in this section is such as to be dangerous or injurious to the persons employed or residing therein, or that the methods of operation are such as to be unnecessarily dangerous or injurious to the persons employed or residing therein, or that any other condition which is within the control of the public employer or the owner, proprietor, agent, administrator, lessor or lessee of any such building, establishment or place to be found to be dangerous or injurious to any persons employed therein or to any other person or persons the public employees, the secretary or the authorized agent of the secretary after making such inspection shall notify in writing the public employer, owner, proprietor, agent, administrator, lessor or lessee of such building, establishment, or place. Such notification may also include an order that requires the provisions of such safeguards or safety devices or the making of such, or alterations, additions, eliminations or changes in methods of operation— or, machinery, apparatus, equipment, office equipment, furniture or facilities or the taking of any other measures that the secretary may deem appropriate and necessary for the safety and protection of the employees or other persons endangered by such conditions and the amount of time granted by the secretary for making any such alterations, additions, changes or taking such other methods as required compliance with the order. Such amount of time shall not exceed 60 days after service of the notice and the order unless an extension thereof is requested for good cause shown by the person named in the order, and such extension is granted by the secretary.

(b)(d) The notification required by subsection—(a) (c) shall include notice of the right to a hearing concerning any order included therein. Any such order shall become final unless within 15 days after service of the notice and order, the person or persons named therein shall request in writing a hearing by the secretary. If a request is made for a hearing, the date of the hearing shall not be more than 30 days after such request is made. Orders under subsection—(a) (c), and hearings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

(e)(e) No person, public employer, firm or corporation, or owner, proprietor, administrator, lessor or lessee, or any officer, agent or
employee thereof, shall remove or require to be removed, or make
ineffective, any practical safeguard around or safety attachment to any
machinery, vats, pan, equipment, tool or other apparatus or device
mentioned in this section while the same is in use, except for the purpose
of immediately making repairs thereto, and all safeguards or safety
attachments so removed shall be promptly replaced before the dangerous
machine, apparatus or device is returned to normal use or operation and
shall remain in place during normal use or operation in accordance with
safety and health standards. Except as otherwise provided, no person shall
require or permit the operation of, or operate, the dangerous machine,
apparatus or device without the required safeguards or safety attachments.

(d) If the secretary of labor determines that conditions or products
in any place of public employment are such that a danger exists which
could reasonably be expected to cause death or serious physical harm
immediately, or before such danger can be eliminated through the
enforcement provisions otherwise provided by law, the secretary may, in
accordance with the provisions of K.S.A. 77-536, and amendments
thereto, order the immediate taking of any steps necessary to avoid,
correct or remove such imminent danger and prohibit the employment or
presence of any individual in locations or under conditions where such
imminent danger exists, except individuals whose presence is necessary to
avoid, correct or remove such imminent danger or to prevent any
avoidable loss of production facilities or product. The secretary may
investigate the death or serious injury of any public employee occurring at
the public employee's place of employment or arising from the employee's
employment.

(g) Upon issuance of the order authorized by subsection (d) of this
section (f) and upon the request of any party who is adversely affected
thereby, the secretary shall fix a place and time for a hearing to be held on
such order in accordance with the provisions of the Kansas administrative
procedure act.

(h) No person or employer shall discharge or in any manner
discriminate against any public employee in pay, promotion, hiring or any
condition of employment because such employee has filed a complaint
with, or furnished information to, the secretary of labor concerning
conditions or situations alleged to be unsafe or hazardous or otherwise
covered by the provisions of this act.

(i) Any person who willfully violates any provision of this section
or any lawful order issued pursuant to this section shall be guilty of a
misdemeanor and shall be subject to a fine of not less than $25 nor more
than $100. Each day that such violation exists shall constitute a separate
offense.

(j) An action brought pursuant to this section shall not constitute a
bar to enforcement of the provisions of this section by injunction or other
appropriate remedy, and upon request of the secretary of labor, the attorney
general shall have the power to institute and maintain in the name of the
state any and all appropriate enforcement procedures.

(k) The secretary shall adopt rules and regulations as necessary to
implement and administer the provisions of this act.

Sec. 2. K.S.A. 2019 Supp. 44-636 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.