

## HOUSE BILL No. 2531

By Committee on Agriculture

1-24

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1 AN ACT concerning counties and townships; relating to rights-of-way;  
2 authorizing certain persons to use the right-of-way of any county road  
3 or township road to install, maintain and operate a pipeline for  
4 agricultural activities.

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

7 Section 1. (a) Upon approval by the board of county commissioners,  
8 any person engaged in an agricultural activity may construct, maintain and  
9 operate pipelines in pursuit of an agricultural activity along, upon, under  
10 and across the right-of-way of any county road, as defined in K.S.A. 68-  
11 101(c), and amendments thereto, or any township road, as defined in  
12 K.S.A. 68-101(e), and amendments thereto, in conformity with the laws  
13 and regulations of the state of Kansas and the county in which the pipeline  
14 is located.

15 (b) Except for pipelines installed in violation of an express  
16 prohibition of the board of county commissioners in effect at the time of  
17 such installation, all pipelines for use in an agricultural activity installed  
18 along, upon, under and across a right-of-way of county or township road  
19 prior to the effective date of this section are deemed to have been  
20 authorized by the board of county commissioners and are ratified as  
21 permitted uses of such rights-of-way.

22 (c) Any person engaged in an agricultural activity may request the  
23 board of county commissioners to approve a pipeline described in  
24 subsection (a) by submitting a written application to the county clerk. The  
25 application shall provide the location, design and specifications of the  
26 pipeline. Any application to use or occupy a specific portion of a road  
27 right-of-way shall not be denied or approved with conditions without  
28 reasonable notice and an opportunity for a public hearing before the board  
29 of county commissioners. The board of county commissioners shall  
30 approve or deny the application by resolution within 60 days of receipt by  
31 the county clerk. A failure to approve or deny the application by resolution  
32 within 60 days shall be deemed the approval of the application. Any  
33 approval or denial may be appealed pursuant to K.S.A. 19-223, and  
34 amendments thereto.

35 (d) Any decision made by the board of county commissioners  
36 pursuant to subsection (c) shall be:

1 (1) Limited to whether the pipeline interferes with public travel upon  
2 the road or the ability of the county or township to maintain the road or  
3 road right-of-way, and

4 (2) reasonable and not arbitrary, capricious or discriminatory.

5 (e) Any pipeline permitted under this section shall be maintained by  
6 and at the expense of the owner installing or operating such pipeline.

7 (f) (1) A county commission or board of township trustees may  
8 require the owner of a pipeline approved under this section to:

9 (A) Repair all damage to a road or road right-of-way caused by the  
10 activities of such owner, or of any agent, affiliate, employee or  
11 subcontractor of such owner, while occupying, installing, repairing or  
12 maintaining the pipeline in a road or road right-of-way; and

13 (B) return the road and road right-of-way to its functional equivalence  
14 before the damage pursuant to the reasonable requirements and  
15 specifications of the county or township.

16 (2) If the owner fails to make the repairs required by the county or  
17 township, the county or township may make such repairs and charge the  
18 owner the cost of such repairs.

19 (3) If a county or township incurs damages as a result of a violation  
20 of this subsection, then the county or township shall have a cause of action  
21 against the owner for such violation of this subsection and may recover the  
22 county's of township's damages, including reasonable attorney fees, if the  
23 owner is found liable by a court of competent jurisdiction.

24 (g) If requested by a county commission or board of township  
25 trustees, in order to accomplish construction and maintenance activities  
26 directly related to improvements to the road or road right-of-way, an  
27 owner of a pipeline approved under this section shall promptly relocate or  
28 adjust the pipeline within the road or road right-of-way at no cost to the  
29 county or township. Such relocation or adjustment shall be completed as  
30 soon as reasonably possible within the time set forth in any request by the  
31 county or township for such relocation or adjustment. Any damages  
32 suffered by the county, township, or its contractors as a result of such  
33 pipeline owner's failure to timely relocate or adjust its facilities shall be  
34 paid by such owner.

35 (h) For the purposes of this section, "agricultural activity" means the  
36 same as in K.S.A. 2-3203, and amendments thereto.

37 (i) Nothing in this act shall supplant any local, state or federal law  
38 regulating the transportation of any substance.

39 Sec. 2. This act shall take effect and be in force from and after its  
40 publication in the statute book.