

SENATE BILL No. 227

AN ACT concerning property; relating to renewable energy; amending K.S.A. 58-2272 and repealing the existing section.

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

New Section 1. (a) As used in this section:

(1) “Anemometer” means an instrument for measuring and recording the speed of wind; and

(2) “anemometer tower” means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted.

(b) Any anemometer tower that is 50 feet in height above the ground or higher, located outside the corporate boundaries of any city, and whose appearance is not otherwise mandated by state or federal law, shall be marked, painted, flagged or otherwise constructed to be recognizable in clean air during daylight hours. Any anemometer tower that was erected before July 1, 2011 shall be marked as required by this section within two years after the effective date of this act. Any anemometer tower that is erected on or after the July 1, 2011 shall be marked as required by this section at the time it is erected. Marking required under this section includes marking the anemometer tower, guy wires and accessory facilities as follows:

(1) The top $\frac{1}{3}$ of the anemometer tower shall be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower;

(2) two marker balls shall be attached to and evenly spaced on each of the outside guy wires; and

(3) one or more seven-foot safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

(c) Failure to properly mark an anemometer tower is failing to mark an anemometer tower as required by subsection (b). An owner of an anemometer tower who fails to properly mark an anemometer tower shall be guilty of a class C nonperson misdemeanor.

Sec. 2. K.S.A. 58-2272 is hereby amended to read as follows: 58-2272.

(a) Every instrument that conveys any estate or interest created by any lease or easement involving wind *or solar* resources and technologies to produce and generate electricity shall include:

~~(a)~~ (1) A description of the real property subject to the easement and a description of the real property benefitting from the wind *or solar* lease or easement;

~~(b)~~ (2) a description of the vertical and horizontal angles, expressed in degrees, and distances from the site of the wind *or solar* power system in which an obstruction to the wind *or solar system* is prohibited or limited;

~~(c)~~ (3) all terms or conditions under which the lease or easement is granted or may be terminated, except that if the instrument is recorded under K.S.A. 58-2221, and amendments thereto, any compensation received by the owner of the real property may be excluded; and

~~(d)~~ (4) any other provisions necessary or desirable to execute the instrument.

(b) *No person other than the surface owner of a tract of land shall have the right to use such land for the production of wind or solar generated energy unless granted such right by the lawful owner of the surface estate by lease or easement for a definite period.*

(c) *The provisions of subsection (b) shall not apply to any lease or easement filed of record prior to July 1, 2011, with the register of deeds of the county in which the tract is located.*

(d) *Nothing in this section shall be construed to affect any otherwise enforceable restriction on the use of any tract of land for the production of wind or solar energy whether or not such restriction is in the form of an easement for a definite term.*

Sec. 3. K.S.A. 58-2272 is hereby repealed.

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

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.