AN ACT concerning water; relating to civil penalties in the water appropriation act; creating the crime of sprinkling irrigation water on highways; amending K.S.A. 68-184 and K.S.A. 2013 Supp. 82a-737 and repealing the existing sections.

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

Section 1. K.S.A. 68-184 is hereby amended to read as follows: 68-184. (a) No person shall allow the sprinkling of water from any irrigation watering system upon any state, county or township road or highway within this state.

(b) Any sprinkling of water on roads or highways, as provided in subsection (a), is hereby declared to be a public nuisance, and it shall be the duty of the county attorney or district attorney of each county of this state, upon receiving notice of such nuisance from any person, to initiate injunctive remedies, if necessary, to prevent the occurrence of any such public nuisance class C nonperson misdemeanor.

(c) Prior to seeking injunctive relief or prosecuting a violation, as hereinbefore provided, the county attorney or district attorney of any county in which there exists such public nuisance violation shall notify or cause to be notified, the owner, occupant or person in charge of land on which the irrigation system causing a public nuisance violation is located that such person is maintaining a nuisance in violation of subsection (a) and that injunctive relief will be sought or the violation will be prosecuted if such nuisance violation is not otherwise abated.

Sec. 2. K.S.A. 2013 Supp. 82a-737 is hereby amended to read as follows: 82a-737. (a) As used in this section:

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

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

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

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

(2) any violation of an order issued pursuant to K.S.A. 82a-1038, and amendments thereto, relating to an intensive groundwater use control area;
(3) any violation of a term, condition or limitation imposed by the chief engineer as authorized by law, including, but not limited to: (A) Diversion of water from an unauthorized point of diversion; (B) failure to limit the use of water to the authorized place of use; (C) failure to submit or comply with the terms of conservation plans as required pursuant to K.S.A. 82a-733, and amendments thereto; (D) failure to comply with the maximum annual quantity or rate of diversion authorized; (E) failure to properly install, maintain or assure the accuracy of acceptable water measurement devices; (F) failure to comply with orders related to minimum desirable stream flow, unlawful diversion, impairment of senior water rights or waste of water; or (G) failure to limit the use of water to an authorized type of use.

(c) The amount of the civil penalty provided for by this section shall be not less than $100 nor more than $2,500 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.

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

(e) No civil penalty or suspension or modification of a water right or use of water shall be imposed pursuant to this section except on the written order of the chief engineer or duly authorized agent of the chief engineer. Such order shall state the nature of the violation, the factual basis for the finding, the penalty to be imposed and the appropriate procedure for appeal of the order to the chief engineer or the secretary, as established by K.S.A. 2013 Supp. 82a-1901, and amendments thereto. Upon review, the order shall be affirmed, reversed or modified and the reasons therefor shall be specified.

(f) Any person aggrieved by an order of the chief engineer, or the chief engineer's duly authorized agent, pursuant to this section may request review by the secretary as provided by K.S.A. 2013 Supp. 82a-1901, and amendments thereto, and, upon exhaustion of administrative remedies, may appeal to the district court in the manner provided by the Kansas judicial review act.

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

Sec. 3. K.S.A. 68-184 and K.S.A. 2013 Supp. 82a-737 are hereby repealed.

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