Session of 2019

SENATE BILL No. 153

By Committee on Agriculture and Natural Resources

AN ACT conserving the department of health and environment; relating to water and soil pollutants; spill program; amending K.S.A. 65-171v and repealing the existing section.

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

accidentally or inadvertently and the secretary of health and environment ich is south and in the mount of the south o recoverable in an action brought by the attorney general on behalf of the detailed notification by the secretary or the secretary's authorizedperson responsible for or causing the discharge of materials which are conduct the necessary eleanup-operations with payment for such eleanup authorized-representative-may-enter-into an agreement with a person to Spirit High and the constitution of the factor of the factor of the constitution of the factor of th discharger refuses to undertake elemup operations or if the responsible material must be collected, retained or rendered innocuous, and if a or the secretary's authorized representative determines that the discharged 171v. Whenever a water or soil pollutant is discharged intentionally, such costs were incurred. Any moneys recovered under this section shall people of the state of Kansas in the district court of the county in which for costs of the cleanup operations when so notified, such payment shall be representative. If the responsible person fails to promptly submit payment responsible for repayment of the costs of cleanup work-upon reasonably determined necessary to eleanup under the provisions of this net shall be work to be provided from the pollutant discharge eleanup fund. Anybe remitted to the state treasurer in accordance with the provisions of Section 1. K.S.A. 65-171v is hereby amended to read as follows: 65-

minimize the harmful effects from the release; necessary to restore the environment to the extent practicable and

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oversight of the cleanup, cleanup of a release of a pollutant, including costs necessary for regulator "cleamip costs" means all costs incurred by the state during a

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Senate Committee on Agriculture and Natural Resources Proposed Amendment for SB 153 Prepared by: Tamera Lawrence December 20, 2019

Office of Revisor of Statutes

public health or the environment;

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(4) "person" means any individual, owner, operator, corporation

"emergency" means any release that poses an imminent risk to

- accordance with the product label compliance with the conditions of a federal or state permit or in necessary to respond to and report the release of a pollutant; and environment shall: (b) For the purpose of preventing water and soil pollution detrimental to public health or the environment, the secretary of health spillage, leakage, pumping pouring, emptying, escape or dumping of a plant, animal or aquatic life of the state or to other designated uses, and waters or soils of the state or is likely to create a musance on render such agency, state agency or federal agency; pollutant into or onto the waters or soil of the state, except when done in waters or soils harmful, detrimental or injurious to public health, or to the alteration oflthe natural physical, chemical or biological properties of any limited liability company, partnership, association, municipality, interstate (5) "pollutant" means any substance that causes contamination or (1) Adopt rules and regulations that, in the secretary's judgment, are designate a 24-hour statewide telephone number whereby the "release" means any threatened or real emission, discharge so as to alters or during normal agricultural activities waste or manure on an agricultural operation or in an agricultural facility "Pollutant" does not include any animal or crop
- (c) The secretary may:

person responsible for the release cannot be identified within a reasonable

take necessary action to perform a cleanup of a release if the

order a person responsible for the release of a pollutant to

notice of any release of a pollutant may be made;

provide minimum reportable quantities;

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perform a cleanup of the release, and

period of time.

- (1) 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 the release of a pollutant;
- (2) take necessary action to perform a cleanup of a release of a pollutant if a person responsible for the release fails to take reasonable actions required by the secretary to perform a cleanup of the release; and
- (3) perform a cleanup of a release of a pollutant if the release poses an emergency.
- (d) (1) Whenever a pollutant is released intentionally, accidentally or inadvertently, the person responsible for the release shall be responsible for the cleanup of the release.
- (2) The person responsible for the release of any pollutant, regardless of phase or physical state, shall give notice to the department of health and environment when the release exceeds reportable quantities.

- court of the county where such costs were incurred. recoverable in an action brought by the attorney general in the district (3) The person responsible for the release shall be responsible for repayment of the cleanup costs incurred by the department upon operations promptly after giving notice, repayment costs shall be the responsible party fails to submit payment for costs of the cleanup reasonably detailed notice by the secretary or the secretary's designee. If
- continuing violation, leach day such violation continues shall be deemed a secretary may impose a penalty not to exceed \$10,000. In the case of a section or rules and regulations or orders adopted hereunder, the (e) (1) Upon a finding that a person has violated any provision of this

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separate violation. 0

state treasurer in accordance with K.S.A. 75-4215, and amendments Any moneys recovered under this section shall be remitted to the

pursuant to K.S.A. 75-5672(f), and amendments thereto. activities account in the natural resources damages trust fund established

entire amount in the state treasury to the credit of the emergency response

thereto. Upon each such remittance, the state treasurer shall deposit the

- and an opportunity for hearing upon the written order of the secretary Kansas administrative procedure act. Hearings under this subsection shall be conducted in accordance with the with the secretary within 15 calendar days after service of such order request for hearing shall be in writing, directed to the secretary and filed violatton, the penalty to be imposed and the right to request a hearing. The issued to the person who committed the violation. The order shall state the No penalty shall be imposed except after notice of the violation
- K.S.A. 65-171v is hereby repealed.
- publication in the statute book. This act shall take effect and be in force from and after its

\$5,000

the maximum penalty shall not exceed \$15,000