

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2418

By Joint Committee on Administrative Rules and Regulations

1-11

10 AN ACT concerning the carbon dioxide reduction act; pertaining to lia-
11 bility of the state of Kansas; pertaining to rules and regulations; amend-
12 ing K.S.A. 2009 Supp. 55-1636 and 55-1637 and repealing the existing
13 sections.

14

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

16 New Section 1. (a) Except as permitted by the Kansas tort claims
17 act, no provision of this act shall establish or create or impose upon the
18 commission, any agent or employee thereof, or the state of Kansas any
19 liability or responsibility to pay any damages resulting from the leak or
20 discharge of carbon dioxide from any carbon dioxide injection well or the
21 underground storage of carbon dioxide.

22 (b) This section shall be supplemental to and a part of the carbon
23 dioxide reduction act.

24 Sec. 2. K.S.A. 2009 Supp. 55-1636 is hereby amended to read as
25 follows: 55-1636. K.S.A. 2009 Supp. 55-1636 through 55-1640, *section 1*,
26 79-233 and 79-32,256, and amendments thereto, may be cited as the
27 carbon dioxide reduction act.

28 Sec. 3. K.S.A. 2009 Supp. 55-1637 is hereby amended to read as
29 follows: 55-1637. (a) As used in K.S.A. 2009 Supp. 55-1637 through 55-
30 1640, and amendments thereto:

31 (1) "Carbon dioxide injection well" means any hole or penetration of
32 the surface of the earth used to inject carbon dioxide for underground
33 storage or for enhanced recovery of hydrocarbons and any associated
34 machinery and equipment used for such injection of carbon dioxide. "Car-
35 bon dioxide injection well" does not include underground storage.

36 (2) "Commission" means the state corporation commission.

37 (3) "Underground storage" means any underground formation where
38 carbon dioxide is injected for sequestration.

39 (b) *Except as provided in subsection (h)*, for the purposes of protect-
40 ing the health, safety and property of the people of the state, and pre-
41 venting escape of carbon dioxide into the atmosphere and pollution of
42 soil and surface and subsurface water detrimental to public health or to
43 plant, animal and aquatic life, the commission, on or before July 1, 2008,

1 shall adopt separate and specific rules and regulations establishing
2 requirements, procedures and standards for the safe and secure injection
3 of carbon dioxide and maintenance of underground storage of carbon
4 dioxide. Such rules and regulations shall include, but not be limited to:
5 (1) Site selection criteria; (2) design and development criteria; (3) oper-
6 ation criteria; (4) casing requirements; (5) monitoring and measurement
7 requirements; (6) safety requirements, including public notification; (7)
8 closure and abandonment requirements, including the financial require-
9 ments of subsection (e); and (8) long-term monitoring.

10 (c) *Except as provided in subsection (h)*, the commission may adopt
11 rules and regulations establishing fees for permitting, monitoring and in-
12 specting operators of carbon dioxide injection wells and underground
13 storage. Fees collected by the commission under this subsection shall be
14 remitted by the commission to the state treasurer in accordance with the
15 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
16 each such remittance, the state treasurer shall deposit the entire amount
17 in the state treasury and credit it to the carbon dioxide injection well and
18 underground storage fund.

19 (d) The commission or the commission's duly authorized represen-
20 tative may impose on any holder of a permit issued pursuant to this sec-
21 tion such requirements relating to inspecting, monitoring, investigating,
22 recording and reporting as the commission or representative deems nec-
23 essary to administer the provisions of this section and rules and regula-
24 tions adopted hereunder.

25 (e) Any company or operator receiving a permit under the provisions
26 of this act shall demonstrate annually to the commission evidence, satis-
27 factory to the commission, that the permit holder has financial ability to
28 cover the cost of closure of the permitted facility as required by the
29 commission.

30 (f) The commission may enter into contracts for services from con-
31 sultants and other experts for the purposes of assisting in the drafting of
32 rules and regulations pursuant to this section.

33 (g) Rules and regulations adopted under this act shall apply to any
34 carbon dioxide injection well or underground storage, whether in exist-
35 tence on the effective date of this act or thereafter. **No rule and regu-
36 lation adopted pursuant to subsection (h) shall be construed to
37 prohibit the commission from the plugging, replugging, repairing
38 or remediation of any carbon dioxide injection well or under-
39 ground storage in an emergency situation.**

40 (h) *No rule and regulation adopted under the provisions of this sec-
41 tion shall create or impose upon the commission, any agent or employee
42 thereof or the state of Kansas any liability for the underground storage of
43 carbon dioxide or the maintenance of any carbon dioxide injection well*

1 *or underground storage of carbon dioxide except as permitted by the*
2 *Kansas tort claims act. From and after July 1, 2010, any requirement in*
3 *any rule and regulation adopted by the commission which conflicts with*
4 *the prohibition prescribed in this section shall be null and void.*

5 Sec. 4. K.S.A. 2009 Supp. 55-1636 and 55-1637 are hereby repealed.

6 Sec. 5. This act shall take effect and be in force from and after its
7 publication in the statute book.