HOUSE BILL No. 2158

AN ACT concerning agriculture; relating to food; requiring beekeepers who meet certain requirements to sell packaged honey and honeycombs without holding a food establishment or food processing plant license under the Kansas food, drug and cosmetic act; providing that beekeepers who meet certain requirements are not required to acquire or maintain certain facilities or equipment under such act; amending K.S.A. 65-689 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) "Honey" means the nectar and saccharine exudations of plants that are gathered, modified and stored in the comb by honey bees.

(2) "Honeycomb" means a structure of cells composed of beeswax in which bees store honey.

(3) "Unaltered" means left raw and in the original state after harvesting and, if applicable, straining. "Unaltered" does not include honey or honeycombs that have been pasteurized.

(b) Any beekeeper who wishes to sell honey or honeycombs for sale or resale at a retailer shall be exempt from the requirement to hold a license pursuant to K.S.A. 65-689, and amendments thereto, if such beekeeper meets the following requirements:

(1) Honey and honeycombs are packaged on the property of the beekeeper harvesting and selling such products;

(2) packaged honey and honeycombs are labeled with the following information in legible English and otherwise be in accordance with state and federal law:

(A) A "honey" or "honeycomb" designation. The floral source may be part of the name if the product contains a significant amount of pollen from that flower;

(B) the name, address and zip code of the beekeeper packaging the honey or honeycomb;

(C) the net weight of the contents; and

(D) a disclaimer stating the following: "Product not subject to routine inspection by the Kansas department of agriculture.";

(3) the beekeeper keeps such honey and honeycombs unaltered and free from additional additives;

(4) the hive or hives from which the honey or honeycombs originated were located in the state of Kansas when such honey or honeycombs were harvested;

(5) the beekeeper's annual gross sales from honey and honeycombs does not exceed $35,000;

(6) the beekeeper follows the minimum sanitary standards adopted by the department for packaging the honey and honeycombs; and

(7) the beekeeper harvesting and selling the honey or honeycombs maintains a record of sales of such products. The record shall be available to the Kansas department of agriculture when requested. The record of sales shall include, but not be limited to:

(A) The amount of honey or honeycombs sold by container size;

(B) where such honey or honeycombs were sold; and

(C) the date of such sales.

(c) Any beekeeper who meets the requirements of subsection (b) (1), (2), (3), (4), (6) and (7) shall not be required to acquire or maintain facilities or equipment required for temperature-controlled food items, including a kitchen permitted for commercial food preparation.

(d) Nothing in this section shall be construed to prohibit a beekeeper from applying for and holding a license pursuant to K.S.A. 65-689, and amendments thereto.

(e) This section shall be a part of and supplemental to the Kansas food, drug and cosmetic act.

Sec. 2. K.S.A. 65-689 is hereby amended to read as follows: 65-689. (a) It shall be unlawful for any person to engage in the business of conducting a food establishment or food processing plant unless such person shall have in effect a valid license therefor issued by the secretary.

(b) Applications for such licenses shall be made on forms prescribed by the secretary, and each such application shall be

accompanied by an application fee and by a license fee. Prior to the issuance of any such license, the secretary shall inspect or cause to be inspected the food establishment or food processing plant designated in the application~~,~~ to determine that it complies with rules and regulations adopted pursuant to the food, drug and cosmetic act~~, and amendments thereto~~. If the food establishment or food processing plant is found to be in compliance~~,~~ and the completed application and accompanying fees have been submitted, the secretary shall issue the license. If the food establishment or food processing plant is found not to be in compliance, the secretary shall deny the application for a license after providing notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(c) Every license issued hereunder shall be displayed conspicuously in the food establishment or food processing plant for which it is issued, and no such license shall be transferable to any other person or location. Whenever any such license is lost, destroyed or mutilated, a duplicate license shall be issued to any otherwise qualified licensee upon application therefor and the payment of a fee in the amount of $5.

(d) A license shall not be required ~~by~~ *for*:

(1) A plant or facility registered or licensed by the department of agriculture pursuant to article 7 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or licensed or registered by the department of agriculture pursuant to article 6a of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall not be required to obtain a separate license pursuant to this section if the inspections conducted under the respective acts encompass all operations of the facility.

(2) A registered nonprofit organization that provides food without charge solely to people who are food insecure, including, but not limited to, soup kitchens and food pantries.

(3) A location where prepackaged individual meals are distributed to persons eligible under the federal older Americans act.

(4) A person who produces food for distribution directly to the end consumer, if such food does not require time and temperature control for safety or specialized processing, as determined by the secretary.

(5) A person who serves food exclusively on interstate conveyances or common carriers.

(6) A person operating a food establishment for less than seven days in any calendar year.

(7) A person who prepares, serves or sells food for the sole purpose of soliciting funds to be used for community or humanitarian purposes or educational or youth activities.

(8) A person operating a food vending machine, if the food vending machine company:

(A) Is licensed as a food establishment, or if located in another state, licensed according to the laws of such state;

(B) maintains, and makes available to the secretary, a current record of the location of each food vending machine it operates or services; and

(C) conspicuously displays the company name, phone number and any additional information the secretary may require on each such vending machine.

(9) A person providing only complimentary coffee to its patrons whose primary business is unrelated to operating a food establishment or food processing plant.

(10) A person operating a farm winery, as defined in K.S.A. 41-102, and amendments thereto, who does not produce or offer any food products other than wine produced at such farm winery.

(11) A retailer, as defined in K.S.A. 41-102, and amendments thereto, that sells only alcoholic liquors and cereal malt beverages.

(12) A food establishment that sells or offers for sale only packaged foods that are non-hazardous and are received directly from a licensed food production facility in packaged form, if such food

establishment contains less than 200 cubic feet as measured pursuant to K.S.A. 65-688(e), and amendments thereto.

(13) A person who provides food samples, without charge, to promote, advertise or compliment the sale of food or associated food preparation equipment.

(14) A guest house, as defined in K.S.A. 36-501, and amendments thereto.

(15) A beekeeper who meets the requirements of section 1(b), and amendments thereto.

(e) The exemption provided to those entities provided in subsection (d) shall not be exempt from inspection or regulation when a violation is observed or reported to the secretary.

(f) A food establishment operated in connection with any premises licensed, registered or permitted by the secretary of health and environment, the secretary for children and families, the secretary of corrections or the secretary for aging and disability services that is inspected and regulated pursuant to the respective law or rule and regulation of such secretary~~,~~ shall not require a license, and the secretary of agriculture shall not be authorized to inspect or cause such premises to be inspected. This subsection shall not apply to a food establishment whose primary function is not in connection with any premises licensed, registered or permitted pursuant to the respective law or rule and regulation of such secretary.

Sec. 3. K.S.A. 65-689 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 HOUSE, and was adopted by that body

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HOUSE adopted
Conference Committee Report_____

_____
Speaker of the House.

_____
Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report_____

_____
President of the Senate.

_____
Secretary of the Senate.

APPROVED _____

_____
Governor.