

SENATE BILL No. 395

AN ACT concerning plant and animal diseases; relating to state of disaster emergency; unlawful acts and punishment therefor; amending K.S.A. 21-3419 and 21-3436 and K.S.A. 2001 Supp. 48-924 and repealing the existing sections; also repealing K.S.A. 2001 Supp. 47-623.

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

New Section 1. (a) Endangering the food supply is knowingly:

(1) Except as provided in subsection (b), bringing into this state any domestic animal which is affected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease;

(2) except as provided in subsection (b), exposing any animal in this state to any contagious or infectious disease;

(3) except as permitted under K.S.A. 2-2112 *et seq.*, and amendments thereto, bringing or releasing into this state any plant pest as defined in K.S.A. 2-2113, and amendments thereto, or exposing any plant to a plant pest; or

(4) except as provided in subsection (b), exposing any raw agricultural commodity, animal feed or processed food to any contaminant or contagious or infectious disease.

(b) The provisions of this section shall not apply to bona fide experiments and actions related thereto carried on by commonly recognized research facilities.

(c) As used in this section: (1) "Animal feed" means an article which is intended for use for food for animals other than humans and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal;

(2) "contagious or infectious disease" means any disease which can be spread from one subject to another by direct or indirect contact or by an intermediate agent, including, but not limited to, anthrax, all species of brucellosis, equine infectious anemia, hog cholera, pseudorabies, psoroptic mange, rabies, tuberculosis, vesicular stomatitis, avian influenza, pullorum, fowl typhoid, psittacosis, viscerotropic velogenic Newcastle disease, foot and mouth disease, rinderpest, African swine fever, piroplasmosis, vesicular exanthema, Johne's disease, scabies, scrapies, bovine leukosis and bovine spongiform encephalopathy;

(3) "processed food" means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration or milling; and

(4) "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.

(d) (1) Endangering the food supply is a class A nonperson misdemeanor.

(2) Endangering the food supply when the contagious or infectious disease is foot-and-mouth disease is a severity level 4, nonperson felony.

(e) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

New Sec. 2. (a) Aggravated endangering the food supply is endangering the food supply, as provided in section 1, and amendments thereto, when done with the: (1) Intent to cause damage to plants or animals or to cause economic harm or social unrest; or

(2) intent to cause illness or injury or death to a human being or beings.

(b) (1) Aggravated endangering the food supply as provided in subsection (a)(1) is a severity level 3, nonperson felony.

(2) Aggravated endangering the food supply as provided in subsection (a)(2) is a severity level 3, person felony.

(c) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

Sec. 3. K.S.A. 21-3419 is hereby amended to read as follows: 21-3419. (a) A criminal threat is any threat to:

(1) Commit violence communicated with intent to terrorize another, or to cause the evacuation of any building, place of assembly or facility of transportation, or in reckless disregard of the risk of causing such terror or evacuation; ~~or~~

(2) adulterate or contaminate any food, *raw agricultural commodity*, beverage, drug, *animal feed*, *plant* or public water supply; *or*

(3) *expose any animal in this state to any contagious or infectious disease.*

(b) A criminal threat is a severity level 9, person felony.

(c) As used in this section, “threat” includes any statement that one has committed any action described by subsection (a)(1) or (2).

Sec. 4. K.S.A. 21-3436 is hereby amended to read as follows: 21-3436. (a) Any of the following felonies shall be deemed an inherently dangerous felony whether or not such felony is so distinct from the homicide alleged to be a violation of subsection (b) of K.S.A. 21-3401 and amendments thereto as not to be an ingredient of the homicide alleged to be a violation of subsection (b) of K.S.A. 21-3401 and amendments thereto:

(1) Kidnapping, as defined in K.S.A. 21-3420 and amendments thereto;

(2) aggravated kidnapping, as defined in K.S.A. 21-3421 and amendments thereto;

(3) robbery, as defined in K.S.A. 21-3426 and amendments thereto;

(4) aggravated robbery, as defined in K.S.A. 21-3427 and amendments thereto;

(5) rape, as defined in K.S.A. 21-3502 and amendments thereto;

(6) aggravated criminal sodomy, as defined in K.S.A. 21-3506 and amendments thereto;

(7) abuse of a child, as defined in K.S.A. 21-3609 and amendments thereto;

(8) felony theft under subsection (a) or (c) of K.S.A. 21-3701 and amendments thereto;

(9) burglary, as defined in K.S.A. 21-3715 and amendments thereto;

(10) aggravated burglary, as defined in K.S.A. 21-3716 and amendments thereto;

(11) arson, as defined in K.S.A. 21-3718 and amendments thereto;

(12) aggravated arson, as defined in K.S.A. 21-3719 and amendments thereto;

(13) treason, as defined in K.S.A. 21-3801 and amendments thereto;

(14) any felony offense as provided in K.S.A. 65-4127a, 65-4127b or 65-4159 or K.S.A. 1995 2001 Supp. 65-4160 through 65-4164 and amendments thereto; ~~and~~

(15) any felony offense as provided in K.S.A. 21-4219 and amendments thereto; *and*

(16) *endangering the food supply as defined in section 1, and amendments thereto.*

(b) Any of the following felonies shall be deemed an inherently dangerous felony only when such felony is so distinct from the homicide alleged to be a violation of subsection (b) of K.S.A. 21-3401 and amendments thereto as to not be an ingredient of the homicide alleged to be a violation of subsection (b) of K.S.A. 21-3401 and amendments thereto:

(1) Murder in the first degree, as defined in subsection (a) of K.S.A. 21-3401 and amendments thereto;

(2) murder in the second degree, as defined in subsection (a) of K.S.A. 21-3402 and amendments thereto;

(3) voluntary manslaughter, as defined in subsection (a) of K.S.A. 21-3403 and amendments thereto;

(4) aggravated assault, as defined in K.S.A. 21-3410 and amendments thereto;

(5) aggravated assault of a law enforcement officer, as defined in K.S.A. 21-3411 and amendments thereto;

(6) aggravated battery, as defined in subsection (a)(1) of K.S.A. 21-3414 and amendments thereto; *and*

(7) aggravated battery against a law enforcement officer, as defined in K.S.A. 21-3415 and amendments thereto.

(c) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 5. K.S.A. 2001 Supp. 48-924 is hereby amended to read as follows: 48-924. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) The governor, upon finding that a disaster has occurred or

that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency. *In addition to or instead of any actions pursuant to the provisions of K.S.A. 2-2114, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 2-2112 et seq., and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among plants, raw agricultural commodities, animal feed or processed food of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency.*

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but except as provided in paragraph (4), no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed 30 days beyond such 15-day period.

(4) If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance council may authorize additional extensions of the state of disaster emergency by a unanimous vote of the legislative members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.

(5) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(6) Any proclamation declaring or terminating a state of disaster emergency which is issued under this subsection shall indicate the nature of the disaster, the area or areas threatened or affected by the disaster and the conditions which have brought about, or which make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204 and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection (a). During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of any constitutional

disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the political subdivisions or areas affected by the proclamation. Such proclamation shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, shall be authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 6. K.S.A. 21-3419 and 21-3436 and K.S.A. 2001 Supp. 47-623 and 48-924 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

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

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.