

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Senator Fred A. Kerr at
Chairperson

8:00 a.m./~~p.m.~~ on Thursday, April 26, 1984, 19 in room 423-S of the Capitol.

All members were present except: Senator Ross Doyen (E)

Committee staff present: Raney Gilliland, Research Department
Jim Wilson, Revisor's office

Conferees appearing before the committee:

Don Jacka, Kansas Department of Agriculture
Ken Wilke, Attorney, Department of Agriculture
Ken Johnson, KLPGA, Topeka
Tom Tunnell, KGFDA, Hutchinson

Senator Norvell moved the April 3, 1984 minutes be approved, seconded by Senator Karr. Motion carried.

HOUSE BILL 3119 - Senator Kerr called on Don Jacka to explain the need and provisions of this bill. Mr. Jacka stated in the budget review it was suggested for efficiency in the State Department of Agriculture early in February that a bill be written to include the provisions in this bill covering inspections of large capacity scales in the state and fees therefor, and a fee assessment for financing of LPG inspections.

Mr. Jacka stated prior to 1978 there was an attempt made to check all large scales once every three years. Since 1978 there has been a spot check program, particularly those scales with a history of out of tolerance. He stated the large scale trucks are worn out and they need financing for replacements. He further stated 70% of all large capacity scales are found to be accurate. Presently there are no fees assessed. The bill would authorize licensing of scale testing companies. They now have three trucks with three men assigned to the inspections. Under H. B. 3119 two trucks and two men would be required, with the third man being transferred to the inspection of anhydrous ammonia and it would eliminate the need for one new vehicle. All scales would be inspected by licensed service companies once a year. Senator Montgomery suggested this subject be included in the interim committee study.

Ken Johnson stated they would favor the deletion of Section 13.

Tom Tunnell stated most of their large capacity scales are inspected by service companies. Upon inquiry, he stated the charge is between \$100-\$150. The bill would assure that all the companies would be licensed to do the inspections, but he feared they would increase their charges. There are many inspection companies in the state.

After further discussion, Senator Gannon moved House Bill 3119 be amended by striking Section 13, seconded by Senator Warren. Motion carried.

Senator Allen moved to include the intent of this bill in an interim committee recommendation which is already being requested on the topic of weights, measures and testing, seconded by Senator Montgomery. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,
room 423-S, Statehouse, at 8:00 a.m./~~p~~oxon Thursday, April 26, 1984, 19

HOUSE BILL 3072 - Senator Kerr called on Jim Wilson who referred to Attachment 1, the amended version of this bill in which the criminal action was stricken and pointed out the exemptions which now include Pizza with the exclusion of non-liquid toppings, with the effective date changed to January 1, 1985, and also referred to comments he had received from Ken Wilke.

Ken Wilke, in answer to an inquiry by Senator Allen, stated he did not feel comfortable with Subsection (b), Section 8, on page 4, which is inconsistent with the same product being handled in two different ways depending upon where it is sold or consumed. He feels this is unequal treatment. He feels there is a good chance the bill would be tested in court. Senator Allen moved on page 4 under Section 8, Subsection (b) of the proposed amendments be stricken, seconded by Senator Montgomery. Motion carried.

Senator Warren moved the amendments as proposed be adopted, seconded by Senator Norvell. Motion carried. Senator Kerr voted No. Senator Warren moved that House Bill 3072 be recommended favorably for passage as amended, seconded by Senator Norvell. Motion carried.

Senator Kerr called on Raney Gilliland to explain the proposed subjects for an Interim Committee study, as contained in Attachment 2. He reviewed each item. Senator Kerr stated there were many items suggested and priorities may have to be considered. He asked committee members to give thought thereto and let him know today if they wanted to make further suggestions.

The meeting was adjourned.

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PROPOSED AMENDMENTS TO H.B. NO. 3072

"AN ACT concerning dairy products; repealing the Kansas filled dairy products act; eliminating prohibitions on sale of milk which contains fat or oil other than milk fat; amending K.S.A. 65-707 and repealing the existing section and also repealing K.S.A. 65-725, 65-726, 65-727, 65-728, 65-729, 65-730, 65-731 and 65-732."

Be amended:

On page 1, following line 23, by inserting the following material to read as follows:

"New Section 1. It is the intent of the legislature to protect the consumers of this state from confusion, fraud and deception, to prohibit practices inimical to the general welfare and to promote the orderly and fair marketing of dairy products.

New Sec. 2. (a) "Person" means any individual, firm, partnership, association, trust, estate, corporation and any other business unit, device or arrangement;

(b) "dairy product" means milk, cream, sour cream, butter, skim milk or skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, concentrated milk and any other food products that are manufactured principally from milk or milk derivatives;

(c) "secretary" means the secretary of the state board of agriculture;

(d) "artificial dairy product" means any food which by its composition, intended use, sensory qualities, physical properties, package or label description purports to resemble or imitate any dairy product, but does not include: (1) Any distinctive proprietary food compound not readily mistaken for a dairy product, which is customarily prepared and designed for medicinal or special dietary use and predominantly so labeled; or

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(2) any dairy product flavored with chocolate or cocoa or enriched with vitamins when the nonmilk fats or oils contained in the product do not exceed the amount of cocoa fat naturally present in the chocolate or cocoa used and the food oil, not in excess of .01% of the weight of the finished product, is used as a carrier of the vitamins.

(e) "milk" means milk, skim milk, skimmed milk, cream, lowfat milk, nonfat dry milk and any fluid derivative of the listed items.

New Sec. 3. It shall be unlawful for any person, directly or indirectly, to knowingly manufacture, sell or exchange an artificial dairy product which does not adhere to the labeling requirements of sections 1 to 8, inclusive. Any artificial dairy product manufactured, sold or exchanged in violation of this act shall be considered a misbranded food under the Kansas food, drug and cosmetic act and the penalties and remedies provided by that act shall apply.

New Sec. 4. (a) The statement "an artificial dairy product" must be indicated in the upper 30% of the principal display panel of the package or container of an artificial dairy product. The statement shall not be less than 1/2 of the size of the product name or 1/4 of an inch or 18 point type, whichever is larger. The statement must be of similar type, style and color to the product name.

(b) Artificial dairy products shall comply with the applicable federal requirements set forth in section 403 of the federal food, drug and cosmetic act and in sections 101 and 105 of title 21 of the code of federal regulations.

(c) The product name of an artificial dairy product must be presented in bold face type on the principal display panel and must be in lines generally parallel to the base of the container or package.

(d) Every artificial dairy product shall provide, on the principal display panel, a statement of the major differences between the artificial dairy product and the dairy product it

resembles. The information must be in a type size which is at least 25% of the name of the artificial dairy product, nor less than 1/8 of an inch. This information shall include the differences in the fat or oil used and the major difference in the basic ingredients used to replace nonfat milk solids.

(e) A nutritional information panel must be provided on an artificial dairy product which indicates the quantitative nutritional differences between the artificial dairy product and the dairy product that it resembles in comparative columns. The nutrients to be included are those for which a U.S. recommended daily allowance has been established.

New Sec. 5. The secretary shall adopt any rules and regulations necessary and proper to assure compliance with the provisions of sections 1 to 8, inclusive, provide for periodic inspections, investigate violations and complaints and institute and prosecute civil actions for violations. The provisions of sections 1 to 8, inclusive, may be enforced by injunctions granted by any court of competent jurisdiction. Artificial dairy products which are in violation of any of the provisions of sections 1 to 8, inclusive, are subject to seizure and disposition in accordance with an appropriate court order or rules and regulations adopted by the secretary.

New Sec. 6. The provisions of sections 1 to 8, inclusive, are supplemental to all other laws relating to artificial dairy products which are not expressly referred to in those sections, and to all laws relating to the manufacture, sale, exchange or transportation of artificial dairy products within or outside the state of Kansas and shall not be construed to modify, repeal or in any way affect any part or provision of any such laws not expressly repealed by this act.

New Sec. 7. The secretary or authorized representatives of the secretary shall have the authority to issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of artificial dairy products which the secretary or duly authorized representatives of the secretary determine to be

in violation of any of the provisions of sections 1 to 8, inclusive, or rules and regulations adopted thereunder. The order shall prohibit further sale and movement of such artificial dairy products, except upon approval of the enforcing officer, until such officer has evidence that the law had been complied with, and the officer has issued a release from the stop sale order of such artificial dairy products. The owner or custodian of such artificial dairy products shall have the right to appeal from the order to a court of competent jurisdiction in the county in which the artificial dairy products are located for a release from such order and for the discharge of such artificial dairy products from the order prohibiting the sale, processing and movement of such products in accordance with the findings of the court. The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of sections 1 to 8, inclusive.

New Sec. 8. The following shall be exempt from the provisions of sections 1 to 8, inclusive:

(a) Pizza, dry coffee whiteners, liquid coffee whiteners, dips, dressings, whipped toppings and margarine or margarine-type products; and

(b) sales of artificial dairy products to or by a food service establishment licensed pursuant to K.S.A. 36-503 and amendments thereto or by a food service establishment which is not required to obtain a license under K.S.A. 36-503 and amendments thereto because it is engaged only in the occasional sale or serving of food as defined by that statute.

New Sec. 9. If any provisions of this act or its application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application. To this end the provisions of this act are severable.";

And by renumbering sections accordingly;

On page 5, in line 172, preceding "its" by inserting "January 1, 1985, and";

Also on page 1, in the title, in line 17, after the semicolon by inserting the following: "requiring labels on certain artificial dairy products; declaring certain acts to be unlawful";

And the bill be passed as amended.

Chairperson

MEMORANDUM

April 25, 1984

TO: Senate Agriculture and Small Business Committee

FROM: Kansas Legislative Research Department

RE: Possible Interim Study Topics

The following briefly outlines some of the possible topics which this Committee could recommend to the Legislative Coordinating Council for interim study.

1. Several farm organizations have recommended that an interim committee be appointed to study the problems associated with the sale of agricultural products in this state under the Uniform Commercial Code. According to these farm organizations several states have taken steps to protect purchasers of agricultural products from those who may hold a security interest in those agricultural products. At times purchasers of farm products have been made liable for the security interest held by a third party in the agricultural product. These farm organizations wish the Legislature to consider making these sales final and free of any security interest which the seller is liable for.
2. During this Legislative Session this Committee held hearings on 1984 S.B. 645, proposing changes to the Kansas Seed Law. The proposed bill would have required all agricultural seed sold in Kansas to be labeled and tested before sale. The proposed bill would have also eliminated the farmer exemption, which permits farmers to sell seed produced on their land without it first being tested and labeled. An interim committee could be appointed to study this proposal.
3. During this Legislative Session, H.B. 3055, was proposed to require labeling of certain types of food products. These food products required to be labeled would be artificial dairy products. The labeling requirements would have required a nutritive panel comparing the product with the natural dairy product.
4. The Kansas Fertilizer and Chemical Institute has asked that an interim committee study the issue of agricultural credit, specifically in the area of crop lien priority status afforded suppliers of crop production input items. The Institute argues that lien priority is given totally to lenders of operating capital. The Institute desires an interim committee to determine if a legislative change can be made to provide similar protection for suppliers of chemical and fertilizer input items.
5. The Senate Agriculture and Small Business Committee as well as the entire Senate approved S.C.R. 1665, which requested that an interim committee be appointed to study the duties and functions of the Weights and Measures Division of the Kansas State Board of Agriculture and the Director of Taxation with regard to the testing of devices used in measuring refined petroleum products at the point of bulk transportation and delivery. The Senate Agriculture Committee also added to this request a study of the use and accuracy of grain moisture measuring devices and dockage procedures. The concurrent resolution remains in House Ways and Means Committee.

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6. The Agriculture and Small Business Committee also heard discussion of a proposal for an interim study on the possibility of studying the need for the development of an agri-business degree program at one of the major higher education institutions. This program would be directed mainly at the promotion of products in the international marketplace.
7. In a letter from the Kansas Farm Bureau and received by the President of the Senate, Speaker of the House, and the Chairmen of the two Agriculture Committees mention is made of a proposal to change the financing and appropriations process for the International Grains Program at Kansas State University. An interim committee could be appointed to study the activities of the International Grains Programs as well as the means by which it is funded.
8. The House Agriculture Committee discussed potential changes in the Kansas farm tenancy statutes. Both House and Senate Agriculture Committees considered bills making modifications in these statutes (H.B. 3057 and S.B. 637). Neither bill received initial committee approval. An interim committee could be appointed to study any necessary modifications in the farm tenancy statutes.