

MINUTES OF THE SENATE AGRICULTURE COMMITTEE.

The meeting was called to order by Chairperson Derek Schmidt at 8:30 a.m. on February 12, 2003 in Room 423-S of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research  
Lisa Montgomery, Revisor of Statutes  
Shannon Stone, Committee Secretary

Conferees appearing before the committee: Jim Murphy, Dept. Of Health & Environment

Others attending: See attached guest list

Senator Lee greeted a number of constituents who were attending the Committee meeting from her district.

Raney Gilliland, Legislative Research, gave a brief overview of the functions of the Department of Health & Environment as related to **SB 124**, reorganization of Kansas Agriculture Department.

Jim Murphy, Kansas Department of Health & Environment, reported on how the KDHE functions with the food protection and consumer safety program. (Attachment 1) At the conclusion of FY2002, 84 percent of food service establishments had been inspected at least once. They have recently gone to 100% fee funded. They have 35 employees assigned throughout various counties. He said the Department of Agriculture is limited to meat inspections. KDHE is much broader, they have five divisions and 16 program activities.

Committee discussion followed. Senator Lee commended it would be logical to have one employee cross-trained to inspect a single facility as it would save travel time. There might be a possibility to have restaurant inspections separate from grocery inspections.

Senator Huelskamp requested a graphic of facilities which were entered, and would also like a check list of what they look for when they walk in an establishment. He questioned whether contracted inspectors could inspect for a lesser fee.

Further discussion will be held on **SB 124** on February 18.

The meeting adjourned at 9:27 a.m.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 12, 2003

NAME	REPRESENTING
Doug Wareham	KGFA / KARA
Diane Gruener	KS Co op Council
Jodd Johnson	KLA
MorSue Mackey	Nutrition Services KSDE
Jodi Mackey	KSDE
Kim Wynn	LMC
Marcia Davis	LMC
Sally Finney	Ks. Public Health Assn.
Jim Murphy	KDHE
Brenda Ludke	LMC
Barb Palen	Mitchell Co. (LMC)
John Finney	Head Law Firm
Tom Maxwell	Mitchell Co. (LMC)
Lesia Roberts	KDHE
Steve Paigie	Self
Ruth Emerson	Mitchell Co (LMC)
Carole Jordan	KDA
Doug A. Foley	KDA
Mike Beam	Ks. Livestk. Assn.

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NAME	REPRESENTING
Tom Bruno	Farm Credit Council
Phyllis Shurt	Mitchell Co Leadership / Mitchell Co Hospital
Karen Seale	Special Assistant / Off. of the Secretary - KDH/E
Curt Frasier	Leadership Mitchell County
Debby (Kram)	Leadership Mitchell County
Tom TUNNELL	KGA / KARA



# K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Senate Bill 124**  
**to**  
**Senate Committee on Agriculture**  
**Presented by Jim Murphy, Office of the Secretary**  
**Kansas Department of Health and Environment**

February 11, 2003

Chairman Schmidt and members of the Senate Committee on Agriculture, I am pleased to appear before you today to discuss Senate Bill 124 regarding the Food Safety Program at the Kansas Department of Health and Environment.

### **Food Protection and Consumer Safety Program**

The Division of Health within the department administers the Bureau of Consumer Health. Within this bureau, the **Food Protection and Consumer Safety Program** is administered to prevent foodborne illnesses and injury from consumer products.

The Food Protection program consists of inspectors, managers, administrative and clerical staff. There are about 12,000 restaurants, 3,500 retail food stores and 700 processing plants licensed by this program. On average, inspectors are responsible for 500 inspections a year. The program contracts with eight county health departments to perform inspections of restaurants in 14 counties, primarily counties of dense population.

This constitutes about 42 percent of all food service establishments in the state. Inspectors, including those working for county health departments, are trained under a standardized training plan with specific competencies required before they are allowed to inspect alone.

### **Program Goals**

Program goals for the Food Protection section are directed by the Secretary's Food Safety Initiative and are authorized by the Kansas Food & Lodging Act (K.S.A. 36-501 et seq.) and the Kansas Food, Drugs and Cosmetics Act (K.S.A. 65-655 et seq.).

The KDHE Food Protection program inspects and regulates food service establishments, retail food stores, food manufacturers and lodging facilities. The primary goal of the Food Protection program is to prevent food-borne illnesses associated with these locations where food is being prepared, served, or stored while promoting industry understanding of disease prevention.

*Senate Agriculture  
Attachment 1*



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The statewide Food Protection program performs pre-licensing inspections for those establishments that are preparing to begin operations, in addition to the investigation of consumer complaints, follow up on identified potential foodborne illness outbreaks and routine inspections.

Along with inspection services, each licensed establishment is evaluated for risk of foodborne illness according to its processes. For example, the risk is higher in an establishment that has hot and/or cold holding of food, extensive food preparation, cooking on site, reheating and cooling of foods, and ware washing facilities. In contrast, an establishment which provides food in its original container from the manufacturer, has cold holding only and no washing of dishware or food preparation equipment is of relatively low risk.

## **Hazardous Food**

Potentially hazardous food, according to the U.S. Public Health Service Food and Drug Administration Food Code, means a food that requires temperature control because it can support rapid and progressive growth of infections or toxigenic microorganisms, the growth of toxin production of *Clostridium botulinum*, or *Salmonella enteritidis*. Examples include milk, milk products, shell eggs, poultry fish shrimps or other Crustacea, meats, baked or boiled potatoes, tofu or other soy-protein foods, cut melons, and garlic and oil mixtures.

The processing of potentially hazardous food is a critical component in evaluating the potential risk of disease. There are discrete practices which will reduce the risk of disease during the processing and storage of potentially hazardous foods. This is arguably the most important aspect of any inspection.

## **Hazard Analysis Critical Control Point Food Safety System**

The program uses the "Hazard Analysis Critical Control Point" food safety system to identify foods, hazards and processes most likely to cause foodborne illnesses, develop control points through the flow of food to reduce risks of illness outbreaks, set critical limits such as temperature, and to monitor the overall food safety.

This standard is applied throughout the food industry. Regulations, including the federal Food and Drug Administration, support this methodology in food safety. A key component of HACCP is the basic science and education of persons responsible for handling food consumed by the public. The Food program includes elements of education and training in its regulatory functions.



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## **Post Audit Review**

At the request of the Secretary, the program was audited by the Division of Post Audit and a performance report was presented to the Legislative Audit Committee in April 2002. Subsequently, the program instituted considerable change in its management.

Inspection priorities were modified and the program restructured management levels and responsibilities to intensify resources on food service establishments performing high risk preparation and storage. Step-by-step licensing, inspection and compliance guidelines were established which limited the tolerance level of noncompliance with regulations. This included a structured enforcement process for repeat or egregious offenders. The program completed an FDA self assessment and is now listed on the FDA's National Registry of jurisdictions that have satisfied the requirements for this element of the FDA National Regulatory Program Standards.

The importance of Food Safety is not readily measurable. In fact, if food is safe, the public health indicator, confirmed foodborne illness rates, will be low. The inspectors and managers respond to many kinds of food emergencies, in addition to the routine regulatory work.

For example, food and food safety can be significantly affected by acts of nature such as tornados and ice storms where electricity is interrupted to the facilities as well as other catastrophes such fire. Tornados often bring on widespread risk by disruption of electricity, communication, destruction to buildings and the contents, plumbing and water supply failures. If a "Boil Water Advisory" is issued, it has impact on food businesses. Contaminated produce and workers with communicable diseases can also result in an emergency for a food business.

At the conclusion of state fiscal year 2002, 84 percent of food service establishments had been inspected at least once. There were nearly 20,000 inspections completed during the same time frame. Of the more than 140 risk reduction plans agreed upon with establishment in noncompliance, nearly 90 percent were completed successfully. These plans address critical health risk practices in an establishment and are tools for establishing safer work practices involving management monitoring activities.

There were about 600 voluntary compliance actions, including voluntary destruction of contaminated products, foods or closure of an establishment in order to correct problems without endangering public health or safety.

The Food Protection program at KDHE approaches food protection and its complexities with a focus on reliable science, standardization, stakeholder participation, education and training as well as a progressive enforcement action system.



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The Legislative Post Audit identified areas of needed improvement as well as identifying good practices. The program is progressing well in its goals and direction as prescribed by this document, the statutory duties, while maintaining awareness of changing issues.

## **Food Safety Initiative**

The Secretary's Food Safety Initiative began in 1999 as a means of encouraging dialog, problem identification and solutions to food safety issues in Kansas. There is broad representation of interest in this advisory group, including members of the regulated industries, academia, federal and state regulatory agencies, and consumers. The work of this committee has been assisted through grants from the FDA. The group meets about twice a year at which time there are educational and training sessions as well as working sessions.

Another forum that assists the agency in its Food program endeavors is the Kansas Conference on Food Protection. The Kansas Public Health Association and the department collaborate to convene this meeting on a biennial basis. The Conference has the distinct purpose of receiving, reviewing and recommending action on food protection issues.

This forum requires a formalized submission of issues, with these elements: a detailed explanation of the issue the conference should consider, a description of the public health impact the issue has on food protection, as well as a precise described action that is recommended. These papers are reviewed, discussed and then acted upon by the Conference Council. The recommendations are then forwarded to the National Conference on Food Protection (NCFP) which meets on alternating years.

The NCFP uses these recommendations in working to establish food safety standards at the national level. Although the NCFP has no formal regulatory authority, it is an organization that can profoundly influence model laws and regulations among government agencies and encourages uniformity in their interpretation and implementation. One of the primary activities that the NCFP has had influence upon is the U.S. Public Health Service Food and Drug Administration's model food code.

I hope you will find this information helpful in your deliberations. I will stand for any questions you may have.