

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 3:30 p.m. on February 10, 2009, in Room 783 of the Docking State Office Building.

All members were present.

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Pat Matzek, Committee Assistant

Conferees appearing before the Committee:

Constantine Cotsoradis, Deputy Secretary, Department of Agriculture
Mary Jane Stankiewicz, Chief Operating Officer and Senior Vice President, Kansas Agribusiness Retailers Association (KARA)
Brad Harrelson, State Director, Governmental Relations, Kansas Farm Bureau
Leslie Kaufman, Executive Director, Kansas Cooperative Council
Gary Meyer, Program Director of Pesticide and Fertilizer Programs, Department of Agriculture
George Blush, Dairy Program Manager, Department of Agriculture
Bill Bider, Director, Bureau of Waste Management, Department of Health and Environment

Others attending:

See attached list.

Vice Chairman Fund opened the meeting with explanation of **HB 2121**, provided by Raney Gilliland, Kansas Legislative Research Department, who stated this bill has a number of modifications and additions to statutes relating to pesticides, agricultural chemicals and fertilizers. Mr. Gilliland further stated that in addition, this bill also addresses fee issues in the pesticide and fertilizer arena similar to the fee issues addressed in prior bills.

No questions were asked or comments made.

Hearing on:

HB 2121 - Amendments to department of agriculture fertilizer and pesticide programs, fixing fees, definitions.

Proponents:

Constantine Cotsoradis, Deputy Secretary, Department of Agriculture (Department), (Attachment 1) presented testimony in favor of **HB 2121**, documenting the proposed changes include removing the sunset on pesticide and fertilizer fees, restructuring fees in the Kansas Pesticide Law, and providing additional authority in the Agriculture Chemical Act and the Kansas Pesticide Law. Mr. Cotsoradis also pointed out that if these fees are allowed to sunset, the revenue generated from the fees will be reduced by \$237,000. The Department has been contacted by industry requesting to amend the bill with minor changes which were also discussed.

Questions were asked and comments were made.

Gary Meyer, Program Director of Pesticide and Fertilizer Programs, Department of Agriculture, also answered questions asked by Committee members and staff.

George Blush, Dairy Program Manager, Department of Agriculture, also answered questions asked by Committee members and staff.

Mary Jane Stankiewicz, Chief Operating Officer and Senior Vice President, (Attachment 2) Kansas Agribusiness Retailers Association, spoke in support of **HB 2121**, stating their members pay the fees regulated by the Department of Agriculture and that it is critical to its industry for the Department to maintain a credible

CONTINUATION SHEET

Minutes of the House Agriculture And Natural Resources Committee at 3:30 p.m. on February 10, 2009, in Room 783 of the Docking State Office Building.

regulatory program.

No questions were asked.

Opponents:

Brad Harrelson, State Director, Governmental Relations, Kansas Farm Bureau (KFB), (Attachment 3) presented testimony in opposition of **HB 2121**, stating this is the fourth time he has appeared before the Committee on the same topic of fee increases. Mr. Harrelson asked the Committee to consider the potential impact for those who pay the fees, further stating the KFB has the most trouble accepting the issue of removal of the sunset provision allowing these fees to go on in perpetuity.

Questions were asked and comments were made.

Neutral:

Leslie Kaufman, Executive Director, Kansas Cooperative Council, (Attachment 4) provided neutral testimony on **HB 2121**, documenting the Council feels important provisions throughout the bill are where fees are allowed to be lowered under regulations and/or lowered where fee balances are increasing beyond program needs. Ms. Kaufman also pointed out there needs to be language modification in the bill.

Questions were asked and comments were made.

Upon completion of the hearing on **HB 2121**, the following action items were addressed by members of the Committee.

Action on:

HB 2081 - Fixing fees charged by the secretary of agriculture for milk and dairy products.

Constantine Cotsoradis, Deputy Secretary, Department of Agriculture, provided statistical information to the Committee on Dairy Fees (Attachment 5) and Dairy Start-Up Costs (Attachment 6).

Representative Moxley presented documentation (Attachment 7) on a Proposed **Substitute for HB 2081**, which would extend the sunset for one year, and leave the fees without alteration. **Representative Moxley made a motion to adopt the proposed Substitute for HB 2081. Representative Fund seconded the motion. By majority vote of the Committee, the motion was carried.**

Representative Moxley made a motion to amend two sets of fees from the original bill. Representative Lukert seconded the motion. By majority vote of the Committee, the motion was carried. Representatives Hayzlett, Light and Kerschen voted no.

Representative Moxley made a motion to adopt **Substitute for HB 2081** as amended. Representative Svaty seconded the motion. By majority vote of the Committee, the motion was carried. Representatives Hayzlett, Light and Kerschen voted no.

Action on:

HB 2080 - Solid waste tire management fund.

Bill Bider, Director, Bureau of Waste Management, Department of Health and Environment, answered questions from members of the Committee.

Representative Svaty made a motion to move out **HB 2080** and place it on the Consent Calendar. Representative Johnson seconded the motion. By majority vote of the Committee, the motion was carried.

CONTINUATION SHEET

Minutes of the House Agriculture And Natural Resources Committee at 3:30 p.m. on February 10, 2009, in Room 783 of the Docking State Office Building.

The meeting was adjourned at 5:00 p.m.

The next meeting is scheduled for February 11, 2009.

Testimony on HB 2121
to
The House Agriculture and Natural Resource Committee

by Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture

February 10, 2009

Good afternoon, Chairman Powell and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here in support of House Bill 2121.

HB 2121 proposes changes to the Chemigation Safety Law, the Agricultural Liming Materials Act, the Agriculture Chemical Act, the Kansas Pesticide Law and the Kansas Fertilizer Law. Changes include removing the sunset on pesticide and fertilizer fees, restructuring fees in the Kansas Pesticide Law, and providing additional authority in the Agriculture Chemical Act and the Kansas Pesticide Law. The changes are necessary to sustain the current program, make the fees more equitable, to clarify language and to limit the need to refer cases to the Environmental Protection Agency.

It is essential that we remove the sunset so we can sustain current services. If these fees are allowed to sunset, the revenue generated from fees will be reduced by \$237,000, or 18 percent. The pesticide and fertilizer program protects human health and the environment. The program investigates allegations of pesticide misuse, licenses pesticide applicators, verifies fertilizer label guarantees and helps obtain EPA's permission to use pesticides for purposes not identified on the label when unexpected conditions threaten crops.

This bill would also give us the authority to deal with certain pesticide violations that we currently refer to EPA. EPA fines and enforcement actions are more severe than ours, so this change is beneficial to our state pesticide industry. The state will also benefit by having any monies received from penalties remain in Kansas.

We are restructuring our fees for recertification and examinations to make them more equitable. Currently, individuals can pay the examination fee and take the test as many times as they want. Essentially, these folks are using the test to learn instead of studying. Those who study and pass the test on the first try are unfairly paying for those who are allowed to take the test repeatedly. Under the proposed language in this bill, a fee will be required for each examination. The fees will cover our costs developing, administering and scoring the examinations, and keeping certification records. The recertification fee is used to cover the department's costs of approving the educational programs that allow recertification by training.

The bill contains another fee change that will allow the department to charge out-of-state applicators \$75 for reciprocal certification in Kansas. This will allow applicators educated in another state to apply pesticides in Kansas. We must have an agreement with the other state that confirms we believe their certification program is as stringent as ours. The fee restructuring is as close to revenue-neutral as possible. Based on three year averages for recertifications and tests taken, only \$7,500 in additional revenue is generated by the change.

Most of the other changes proposed in the bill are technical in nature. They remove archaic language and provide clarity about the intent of the laws. Provisions contained in HB 2121 are necessary and benefit the state and the industry we serve. HB 2121 maintains these vital programs that protect human health and our environment.

I will answer questions at the appropriate time.



KANSAS AGRIBUSINESS RETAILERS ASSOCIATION
SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE

Testimony in Support of HB 2121
House Agriculture Committee
February 10, 2009

Good afternoon, Chairman Powell and members of the Committee. Thank you for the opportunity to submit testimony on HB 2121, legislation making changes to pesticide and fertilizer programs within the Kansas Department of Agriculture (KDA). I am Mary Jane Stankiewicz, Chief Operating Officer and Senior Vice President for the Kansas Agribusiness Retailers Association (KARA). KARA is a voluntary state association made up of over 700 business locations across the state. Our members are primarily ag retail facilities but they include agronomy services, chemical, fertilizer and seed sales and manufacturing companies, and equipment manufacturing, distribution and sales companies.

On behalf of the members of KARA, I stand in support of HB 2121. We were contacted by KDA last fall concerning these changes and, after review; KARA believes the changes are prudent. As currently written, HB 2121 provides adjustments that will allow KDA to more efficiently and effectively administer its pesticide and fertilizer programs. KARA's members are the ones who will pay these pays and be regulated by KDA. KARA understands that it is critical to our industry for KDA to maintain a credible program, so our legislative committee and board voted to support these fees. We have also worked with the KDA and support the amendment in an effort to clarify how multiple year registrations will be handled by the department. We also appreciate KDA's willingness to keep stakeholders involved and receive feedback with regard to regulatory changes. KARA values the overall atmosphere of cooperation within the agency.

Thank you for allowing my testimony, I would gladly stand for questions.

Ag & Natural Resources Committee
Date 2-10-09
Attachment 2

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON AGRICULTURE and NATURAL
RESOURCES

RE: HB No. 2063, 2081, 2121 – acts relating to certain fees fixed
by the Secretary of Agriculture.

February 3, 2009
Topeka, Kansas

Testimony provided by:
Brad Harrelson
State Policy Director
KFB Governmental Relations

Chairman Powell, and members of the House Committee on Agriculture and Natural Resources, thank you for the opportunity to appear before you today. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas Farm Bureau is supportive of the Kansas Department of Agriculture and believes the agency should be a strong and vigorous advocate for production agriculture. Furthermore, we understand the need for effective regulatory programs provided primarily for the protection of the general public. Because the citizens of Kansas are beneficiaries of these regulatory programs it is appropriate that significant funding should come from state general funds.

Kansas farmers and ranchers also acknowledge that the industry shares a partnership role with the department in the administration of the programs being considered under this proposed legislation. As such, they are willing to accept some reasonable user fees.

However, we are unable to support user fee increases that are exorbitant (in some cases 50% increases) simply as a means to fund programs during budgetary and fiscal shortfalls. Clearly the state has an interest and an obligation to support these programs. Additionally, we have been unable to identify any significant increase in the level of services that would accompany these increases. We encourage the legislature to recognize the importance of production agriculture and prioritize Kansas Department of Agriculture programs and increase SGF funding so it can effectively meet their statutory requirements.

The proposals in HB 2063, 2081 and 2121 are not only excessive, but they could not come at a worse time. Everyone is aware of the impacts of these trying economic times. But no one is more aware of just how expensive it is to do business than those in agriculture. Input and operating expenses have skyrocketed and been so volatile that making good business decisions has become nearly impossible to do. It has been suggested that these increases will have limited impact on individual producers. That opinion is not shared by many of our members who actually pay the bills, especially some dairy producers that would, in certain cases, be required to pay thousands of dollars more on an annual basis.

It is for these reasons, Kansas Farm Bureau respectfully urges your recommendation to not pass favorably HB 2063, 2081 and 2121. Thank you, once again, for the opportunity to appear before you and share the policy of our members. KFB stands ready to assist you as you consider this important measure. Thank you.



Kansas Cooperative Council

816 S.W. Tyler St., Suite 300
Topeka, Kansas 66612

Phone: 785-233-4085

Fax: 785-233-1038

Toll Free: 888-603-COOP (2667)

Email: council@kansasco-op.coop

www.kansasco-op.coop

House Agriculture Committee

February 10, 2009
Topeka, Kansas

HB 2121 - pesticide and fertilizer program fees.

Chairman Powell and members of the House Agriculture Committee, thank you for the opportunity to comment on HB 2121. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Executive Director. The KCC is neutral on the fee increase contained in HB 2121, but we do have some comments that are related to this program.

The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our members are grain elevator/farm supply cooperatives. These member-owned businesses will be impacted by the proposal before you.

Prior to the session, the Kansas Department of Agriculture (KDA/Department) came to us and informed us of their intent to seek changes to the fee structure for the fertilizer and pesticide program. No business likes to see their operational costs increase, but we do believe the KDA tried to better match fees to the service provided and to come close to revenue neutrality overall. We appreciate the Department's efforts to work with stakeholders and keep us informed of their legislative activities.

We have recognized several time throughout the bill where fees are allowed to be lowered under regulations and/or lowered where fee balances are increasing beyond program needs. We feel these are important provisions, especially in times where fee fund balances are targets for propping up state revenues. The Council firmly believes fee funds generated for a specific program must be used for the purpose collected. We do believe that KDA has been cognizant of the fee sweep potential over the years and has been careful to avoid/spend down higher fee balances. We certainly appreciate this.

We do have one item to bring to your attention. We think that in its most literal reading, paragraph (b) on page 28, lines 2-7, could result in an inappropriate revocation of a pesticide business license. Technically (as we read the bill), a certified commercial applicator employee could leave a pesticide business and, before a replacement was employed, the business would lose its license -- even if no attempts to apply chemical were made during that interim. And, this could be done without a hearing. We do not believe this was the intent of the language and we are willing to work with the KDA and other stakeholders to modify the language. One option would be to limit suspensions for the specific category/subcategory of applications.

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

Ag & Natural Resources Committee

Date 2-10-09

Attachment 4

As a side note, the Kansas Cooperative Council has long-standing policy supporting regulation of agricultural chemicals and fertilizer based on sound science and under programs that focus on the product not the purchaser/applicator. The underlying programs referenced in HB 2121 apply a regulatory approach based not only on product handling practices but applicator attributes. We have long been troubled by this approach that sets different requirements for the handler/applicator based on that person's profession and not product characteristics. Product is product. Given the changes in the modern farming environment, the significant distinctions in training for a "commercial applicator's certificate" versus the requirements for a "certified private applicator certificate" are, in our opinion, not as easily defensible as they once may have been. Our association encourages equitable treatment in training requirements and financial assurances among all applicators applying product to lands other than those under their own control.

We certainly appreciate the opportunity to share thoughts relative to the programs being modified in HB 2121. Again, we stand ready to work with the Department on the language concern noted. We will stand for questions at the appropriate time or I can be contacted later at (785-220-4068).

MEMORANDUM

To: Representative Larry Powell
Chairman, House Agriculture and Natural Resource Committee

From: Constantine V. Cotsoradis *CV*
Deputy Secretary of Agriculture

Subject: HB 2081 – Dairy Fees

Date: February 10, 2009

Although you did not ask that we meet with the opponents of this bill, we have offered some changes based on the work of the subcommittee on HB 2050.

- Lower the fee cap from the proposed 2 cents per hundredweight to the 1 ¾ cents that the program needs right now to continue inspections.
- Remove the proposal to revoke the sunset and instead extend it to 5 years which is consistent to the work of the subcommittee with HB 2050

I have committed to KLA that we will form a work group to study the fee structure right after session. The group will include our staff, KLA staff and the Kansas Dairy Association staff.

I also committed that if we can develop a new and better fee structure that we will bring a bill next year to change the fee structure.

Finally, I committed to assigning my best person to review the dairy program and look for any efficiency that will lower costs.

February 9, 2009

MEMORANDUM

To: Representative Larry Powell
Chairman, House Agriculture and Natural Resource Committee

From: Constantine V. Cotsoradis ^{CVC}

Subject: Dairy Start-Up Costs

Per your request, George Blush, dairy program manager researched the cost to build a dairy. The information provided by Mr. Blush to me follows. Please let me know if you have any other questions.

My research has found that the cost per cow of a new dairy construction varies from \$3415 to \$4088.

Based on an average cost per cow of \$3752, to build and stock a new dairy including:

- Milking parlor / milkroom
- Milking units, pipeline, milk cooler, milk tank, vacuum pumps, water heaters, etc
- Holding pen
- Free-stall cattle housing area
- Pen fencing
- Land cost
- Feeding equipment
- Cows
- Other misc. costs

Dairy Size (cows)	Investment / Cost to Construct	Milk Produced / year (70 lb. herd average)	Potential annual gross income (\$10 cwt. milk)
5000	\$18,760,000	127,750,000 lbs.	\$12,775,000
1000	\$3,752,000	25,550,000 lbs.	\$2,555,000
500	\$1,876,000	12,775,000 lbs.	\$1,277,500
100	\$375,000	2,555,000 lbs.	\$255,500

This table assumes a 70 lb. production per cow per day and \$10 per hundred weight milk. Milk price was significantly higher (\$15+) through much of 2008.

Ag & Natural Resources Committee
Date 2-10-09
Attachment 6

Proposed Substitute for HOUSE BILL NO. 2081

By Committee on Agriculture and Natural Resources

AN ACT concerning milk and dairy products; relating to certain fees fixed by the secretary of agriculture; amending K.S.A. 2008 Supp. 65-771, 65-778 and 65-781 and repealing the existing sections.

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

Section 1. K.S.A. 2008 Supp. 65-771 is hereby amended to read as follows: 65-771. As used in this act:

(a) "Adulterated" has the same meaning as provided in K.S.A. 65-664, and amendments thereto.

(b) "Dairy manufacturing plants" means any place where dairy products, grade A milk or milk products are manufactured or prepared for sale or distribution, either at wholesale or retail. This term shall not include a licensed food service establishment which is licensed to manufacture homemade ice cream pursuant to this act.

(c) "Dairy products" means products which may be made from milk or cream for manufacturing purposes and which are not required to meet grade A standards, including butter, cheese, dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk, whole or skim, condensed whole milk, condensed skim milk, sweetened or plain, frozen dairy dessert, and frozen dairy dessert mixes and such other products as may be otherwise designated by rules and regulations.

(d) "Frozen dairy dessert" means and includes products containing milk or cream and other ingredients which are frozen or semi-frozen prior to consumption, such as ice cream, ice milk

or sherbet, including frozen dairy desserts for special dietary purposes.

(e) "Frozen dairy dessert mix" means the pasteurized unfrozen combination of all ingredients with or without fruits, fruit juices, candy, nut meats, flavor or harmless color which makes a frozen dairy dessert.

(f) "Goat milk" means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy goats. Goat milk sold in retail packages shall contain not less than 2.5 % milkfat and not less than 7.5 % milk solids not fat. Goat milk shall be produced according to the sanitary standards of this act.

(g) "Grade A pasteurized milk" means pasteurized milk which has at least a 90% survey rating, as determined by a survey of the source conducted by the secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation. The milk shall meet the requirements for grade A under the rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on grade A pasteurized milk within the statewide system of milk inspection and regulatory services, although such grade A pasteurized milk does not have at least a 90% survey rating.

(h) "Grade A pasteurized milk products" means all pasteurized milk products which have at least a 90% survey rating, as determined by a survey of the source conducted by the

secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation. The pasteurized milk products shall meet the requirements for grade A under rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on grade A pasteurized milk products within the statewide system of milk inspection and regulatory services, although such grade A pasteurized milk products do not have at least a 90% survey rating.

(i) "Grade A raw milk for pasteurization" means milk having at least 90% survey rating, as determined by a survey of the source conducted by the secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation, the raw milk meeting the requirements for grade A under the rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on grade A raw milk for pasteurization within the statewide system of milk inspection and regulatory services, although such milk does not have at least a 90% survey rating.

(j) "Imminent health hazard" means any condition which involves milk, milk products, or dairy products, or any practice or procedure in the handling, transportation, storage, processing or manufacturing of a milk, milk product or dairy product which poses a significant threat of danger to the public health which should be corrected immediately to prevent injury or sickness and which should not be permitted to continue while a hearing or

other proceeding is being conducted. An imminent health hazard may be declared at any point in a chain of events which ultimately may result in harm or danger to the public health. The occurrence of the final anticipated injury or other disease related condition shall not be a prerequisite for the establishment of the existence of an imminent health hazard.

(k) "In package form" means any commodity put up or packaged in any manner in advance of sale so as to constitute a unit quantity of the commodity for either wholesale or retail sale, exclusive of any auxiliary container enclosing such packages which individually conform to the requirements of this act.

(l) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultrapasteurized, and shall contain not less than 8.25% milk solids not fat and not less than 3.25% milkfat. Milk may have been adjusted by separating part of the milkfat therefrom, or by adding thereto cream, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized. Milk shall be interpreted to include goat milk.

(m) "Milk distributor" means any person who first sells or offers for sale in Kansas any packaged grade A pasteurized milk, milk product, or dairy product.

(n) "Milk hauler/sampler" means any person who collects official samples and may transport raw milk from a farm or raw

milk products to or from a milk plant or both, receiving station or transfer station and has in their possession a permit from any state to sample such products.

(o) "Milk inspection and regulatory services" means the inspection, sampling, laboratory testing and the administrative procedures relating thereto, necessary to determine that the production, processing, distribution and sale of grade A milk, milk products, and dairy products comply with the requirements of this act and any rules and regulations adopted hereunder.

(p) "Milk or cream for manufacturing purposes" means raw milk or raw cream which is not subject to grade A standards and which is produced for processing and manufacturing into dairy products for human consumption. Milk for manufacturing purposes may contain less than 3.25% of butterfat and shall be delivered pure, sweet and clean.

(q) "Milk or cream receiving station" means any place where milk or cream may be received, collected, handled, processed, stored or collected and prepared for further transporting.

(r) "Milk or cream transfer station" means any place where milk or cream are transferred directly from one milk tank truck to another.

(s) "Milk processor" means any person who operates any place, premises or establishment where grade A raw milk for pasteurization or milk or cream for manufacturing purposes is processed, pasteurized, bottled or prepared for distribution.

(t) "Milk producer" means any person who owns or operates a

dairy farm and who provides, sells or offers for sale grade A raw milk for pasteurization or milk or cream for manufacturing purposes to a milk plant, receiving station or transfer station.

(u) "Milk products" means cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, nonfat skim milk, reduced fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat skim milk, aseptically processed and packaged milk and milk products, milk, reduced fat or lowfat milk or nonfat skim milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification of milk products defined herein. Milk products also include those dairy foods made by modifying the federally standardized products listed in this section in accordance with 21 C.F.R. 130.10, requirements for

foods named by use of a nutrient content claim and a standardized term. Milk and milk products which have been retort processed after packaging or which have been concentrated, condensed or dried are included in this definition only if they are used as an ingredient to produce any milk or milk product defined herein or if they are labeled as Grade A as adopted and described by rules and regulations promulgated under this act. Except as otherwise provided, the term milk shall not include dietary products, infant formula, ice cream or other desserts, butter or cheese.

(v) "Misbranded" has the same meaning as ascribed to it in K.S.A. 65-665, and amendments thereto.

(w) "On-farm retail sales of milk or milk products" means the sale of milk or milk products on the farm by the producer from the production of the dairy herd to the final consumer, so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm. The advertisement upon any such sign shall state that such milk or milk products are raw and shall be in letters of a uniform size. Each container in which any unpasteurized milk is sold or offered for sale shall be clearly labeled as ungraded raw milk.

(x) "Pasteurized" has the same meaning as ascribed to it in 21 C.F.R. 131.3 and 135.3.

(y) "Person" means any individual, plant operator, partnership, corporation, company, firm, trustee, association or institution.

(z) "Plant fabricating single service articles" means any place which manufactures single service articles which are expected to come in contact with grade A milk or grade A milk products.

(aa) "Secretary" means the secretary of the Kansas department of agriculture, or the secretary's designee.

(bb) "Single service article or container" means any container having a milk or milk product-contact surface and used in the packaging, handling, storage or servicing of grade A milk and is intended for one usage only.

(cc) "Milk transport tanker wash station" means any place, premises or establishment, separate from a milk plant, receiving or transfer station, where a milk tank truck is cleaned and sanitized.

Sec. 2. K.S.A. 2008 Supp. 65-778 is hereby amended to read as follows: 65-778. (a) Any person who engages in business as a dairy manufacturing plant shall first apply for and obtain a dairy manufacturing plant license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a license fee of \$155.

(b) Any person who engages in business as a distributor of milk, milk products or dairy products shall first apply for and obtain a milk distributor license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a license fee of \$155. No milk distributor license shall be required for a licensed dairy manufacturing

plant which distributes only those products which it manufactures.

(c) Any person who engages in business as a milk hauler shall first apply for and obtain a milk hauler license from the secretary and shall pay a license fee of \$25 or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a license fee of \$35. As part of the application, the secretary may require the applicant to be tested regarding proper procedures for sampling, testing and weighing milk or cream and state laws and rules and regulations.

(d) Any person who operates a milk or cream transfer station or milk or cream receiving station shall first apply for and obtain a milk or cream station license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a license fee of \$65.

(e) Any person who engages in business as a manufacturer of single service dairy containers or manufacturer of single service dairy container closures shall first apply for and obtain a single service manufacturing license from the secretary and shall pay a license fee of \$50, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a license fee of \$65.

(f) Any person who operates a milk transport tanker wash station shall first apply for and obtain a milk transport tanker wash station license from the secretary and shall pay a license fee of \$65.

(g) Any license issued under this section shall be renewed

annually.

{f} (h) The dairy manufacturing plant license, milk distributor license, milk or cream station license, milk transport tanker wash station license and single service manufacturing license shall expire on December 31 of the year for which it was issued unless suspended or revoked by the secretary pursuant to this act. The milk hauler license shall expire on June 30 following the date of issuance unless suspended or revoked by the secretary pursuant to this act.

{g} (i) No license issued under this section shall be transferable. No license shall be renewed if any assessments or fees required under this act are delinquent.

{h} (j) Each applicant for a license or for the renewal thereof shall submit an application on a form supplied by the secretary accompanied by the license fee. All licenses shall be conspicuously displayed in the applicant's place of business.

Sec. 3. K.S.A. 2008 Supp. 65-781 is hereby amended to read as follows: 65-781. The following fees for the statewide system of milk inspection and regulatory services are hereby established:

(a) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$.015 for each 100 pounds of milk produced by milk producers under Kansas grade A inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, milk processor or milk distributor to whom the milk is sold or delivered. Each

cooperative, processor or distributor is hereby charged with the duty of collecting such fees which shall be remitted to the secretary.

(b) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$.015 for each 100 pounds of packaged grade A pasteurized milk or milk products sold in Kansas at retail to the final consumer shall be paid. Each distributor is hereby charged with such fee which shall be remitted to the secretary.

(c) A fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$.015 per 100 pounds or fraction thereof of grade A raw milk for pasteurization delivered to a milk processor within the state of Kansas which is processed into grade A milk or grade A milk products shall be paid. Each milk processor is hereby charged with such fee which shall be remitted to the secretary.

(d) A milk fee of \$.01, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$.015 per 100 pounds of milk or cream for manufacturing purposes produced by milk producers under Kansas manufacturing grade milk inspection shall be paid. Each producer is hereby charged with such fee which shall be paid to the milk producers' cooperative, dairy manufacturing plant or any other person to whom the milk or cream for manufacturing purposes is sold or delivered. Each cooperative, dairy manufacturing plant or other person is hereby charged with the duty of collecting such fees which shall be remitted to the

secretary.

(e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$.01 per 100 pounds of Kansas produced milk or cream for manufacturing purposes or other Kansas produced milk delivered to a dairy manufacturing plant shall be paid on all Kansas milk used in the manufacturing of dairy products. As used in this subsection, the term dairy products shall not include any frozen dairy dessert or frozen dairy dessert mix. Each dairy manufacturing plant shall pay such fee which shall be remitted to the secretary.

(f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$1.50 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix shall be paid by the manufacturer thereof. Each manufacturer of frozen dairy dessert or frozen dairy dessert mix is hereby charged with such fee which shall be remitted to the secretary. Frozen dairy dessert mix which is further processed into the corresponding frozen dairy dessert by the manufacturer of the frozen dairy dessert mix shall not be subject to the fee required by this subsection.

(g) A fee of \$1, or commencing July 1, 2002, and ending June 30, ~~2010~~ 2011, a fee of \$1.50 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix imported for retail sale in Kansas shall be paid by the milk distributor who imports these products.

(h) If any fee computed pursuant to subsection (a) or (c)

through (e) is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee. If any fee computed pursuant to subsection (b), (f) or (g) is less than \$7.50, a minimum fee of \$7.50 shall be paid in lieu of the computed fee.

(i) All fees established herein shall be paid to the secretary in the following manner:

(1) The fees established in subsections (a) and (c) through (e) shall be remitted on or before the 30th day of each month for the calendar month immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantities upon which the remittance is based.

(2) The fees established in subsections (b), (f) and (g) shall be remitted on April 30, July 31, October 31 and January 31 for the three calendar months immediately preceding and shall be accompanied by a report, in the form prescribed by the secretary, indicating the quantity of frozen dairy dessert or frozen dairy dessert mix upon which the remittance is based.

(j) Any person who fails to remit all or any part of the required fee or to submit the required report by the date due may be assessed an additional charge equal to 1% of the amount of delinquent fees for each day after the date due, or \$5, whichever amount is greater.

(k) The secretary is hereby authorized and empowered to reduce the inspection fee provided for in subsections (a) through (h) whenever the secretary determines that such fee is yielding more than is necessary for the purpose of administering the

provisions of this act. The secretary is authorized and empowered to increase such inspection fee, or restore such inspection fee, in full or in part, when such inspection fee is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, except that such fees shall not be increased in excess of the fee as provided in this section.

Sec. 4. K.S.A. 2008 Supp. 65-771, 65-778 and 65-781 are hereby repealed.

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