

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 March 9, 2010, in Room 783 of the Docking State Office Building.

All members were present except:

Representative Hayzlett - Excused  
Representative Hineman - Excused  
Representative Johnson - Excused  
Representative Light - Excused  
Representative Prescott - Excused  
Representative Wolf - Excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes  
Daniel Yoza, 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:

N/A

Others attending:

See attached list.

Chairman Powell began the meeting by asking Committee members to review the balloon amendment (Attachment 1) on **SB 395**, wherein the changes state, "The secretary is authorized and directed to reduce any license fee in subsections (a) through (f) whenever the secretary determines that such fee is yielding more than is necessary for administering the provisions of this act. The secretary is authorized to increase any license fee in subsections (a) through (f), when such license fee is necessary to produce sufficient revenues for administering the provisions of this act. License fees in subsections (a) through (f) shall not be increased in excess of the amounts provided in this section." Also, the annual inspection fee of a milk tank truck was changed from \$100 to \$50.

**Action on SB 395:**

Representative Fund made a motion to adopt the balloon amendment. Representative Tony Brown seconded the motion. The motion carried.

Representative Lukert made a motion to amend the balloon amendment to reduce the annual inspection fee from \$50 to \$25. Representative Kerschen seconded the motion. By a vote of 4 yeas and 6 nays, the motion failed.

Representative Wetta made a motion to move the bill out favorably for passage as amended. Representative Moxley seconded the motion. The motion carried. Representative Kerschen will carry the bill.

**Action on SB 394:**

Raney Gilliland, Kansas Legislative Research Department, explained **SB 394** amends a section of Kansas pesticide law specifically dealing with pesticide education. The amended language allows the Secretary of Agriculture to cooperate with other educational institutions of this state or any other state, any state or federal agency, or any other person in development of information and provision for short courses of instruction.

Representative Fund made a motion to pass out the bill favorably and put on the consent calendar. Representative Meier seconded the motion. The motion carried.

Meeting minutes dated 2-24, 2-25, 3-01, 3-02, and 3-03 were reviewed by members of the Committee and corrections were noted. Representative Tony Brown made a motion to approve the meeting minutes as corrected. Representative Fund seconded the motion. The motion carried.

The next meeting is scheduled for March 11, 2010.

The meeting was adjourned at 4:20 p.m.

# AG. & NATURAL RESOURCES COMMITTEE GUEST LIST

DATE: 3-9-10

NAME	REPRESENTING
Enk Wisner	KDA
Mary Joe Stankiewicz	KARA
BRAD HARRELSON	KFB
Chris Tymea	KDWP

**SENATE BILL No. 395**

By Committee on Agriculture

1-19

Balloon amendment prepared for House  
Agriculture and Natural Resources Committee  
March 8, 2010

9 AN ACT concerning agriculture; relating to milk, milk products and dairy  
10 products; relating to fees and licensing requirements; amending K.S.A.  
11 65-777 and K.S.A. 2009 Supp. 65-771, 65-778 and 65-781 and repeal-  
12 ing the existing sections.  
13

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

15 Section 1. K.S.A. 2009 Supp. 65-771 is hereby amended to read as  
16 follows: 65-771. As used in this act:

17 (a) "Adulterated" has the same meaning as provided in K.S.A. 65-  
18 664, and amendments thereto.

19 (b) "Bulk milk pick up tanker" means a vehicle including the truck,  
20 tank and those appurtenances necessary for such vehicle's use, used by a  
21 bulk milk hauler or sampler to transport bulk raw milk for pasteurization  
22 from a dairy farm to a milk plant, receiving station or transfer station.

23 (c) "Dairy manufacturing plants" means any place where dairy prod-  
24 ucts, grade A milk or milk products are manufactured or prepared for  
25 sale or distribution, either at wholesale or retail. This term shall not in-  
26 clude a licensed food service establishment which is licensed to manu-  
27 facture homemade ice cream pursuant to this act.

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

35 ~~(d)~~ (e) "Frozen dairy dessert" means and includes products contain-  
36 ing milk or cream and other ingredients which are frozen or semi-frozen  
37 prior to consumption, such as ice cream, ice milk or sherbet, including  
38 frozen dairy desserts for special dietary purposes.

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

42 ~~(f)~~ (g) "Goat milk" means the normal lacteal secretion, practically free  
43 of colostrum, obtained by the complete milking of one or more healthy

Ag & Natural Resources Committee  
Date 3-29-10  
Attachment 1

1 goats. Goat milk sold in retail packages shall contain not less than 2.5 %  
2 milkfat and not less than 7.5 % milk solids not fat. Goat milk shall be  
3 produced according to the sanitary standards of this act.

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

14 ~~(h)~~ (i) "Grade A pasteurized milk products" means all pasteurized  
15 milk products which have at least a 90% survey rating, as determined by  
16 a survey of the source conducted by the secretary pursuant to the survey  
17 rating methods for conducting surveys of the status of milk sanitation.  
18 The pasteurized milk products shall meet the requirements for grade A  
19 under rules and regulations adopted pursuant to this act. The secretary  
20 may authorize the use of the grade A designation for a temporary time  
21 period on grade A pasteurized milk products within the statewide system  
22 of milk inspection and regulatory services, although such grade A pas-  
23 teurized milk products do not have at least a 90% survey rating.

24 ~~(i)~~ (j) "Grade A raw milk for pasteurization" means milk having at  
25 least 90% survey rating, as determined by a survey of the source con-  
26 ducted by the secretary pursuant to the survey rating methods for con-  
27 ducting surveys of the status of milk sanitation, the raw milk meeting the  
28 requirements for grade A under the rules and regulations adopted pur-  
29 suant to this act. The secretary may authorize the use of the grade A  
30 designation for a temporary time period on grade A raw milk for pas-  
31 teurization within the statewide system of milk inspection and regulatory  
32 services, although such milk does not have at least a 90% survey rating.

33 ~~(j)~~ (k) "Imminent health hazard" means any condition which involves  
34 milk, milk products, or dairy products, or any practice or procedure in  
35 the handling, transportation, storage, processing or manufacturing of a  
36 milk, milk product or dairy product which poses a significant threat of  
37 danger to the public health which should be corrected immediately to  
38 prevent injury or sickness and which should not be permitted to continue  
39 while a hearing or other proceeding is being conducted. An imminent  
40 health hazard may be declared at any point in a chain of events which  
41 ultimately may result in harm or danger to the public health. The occur-  
42 rence of the final anticipated injury or other disease related condition  
43 shall not be a prerequisite for the establishment of the existence of an

- 1 imminent health hazard.
- 2 ~~(k)~~ (l) "In package form" means any commodity put up or packaged  
3 in any manner in advance of sale so as to constitute a unit quantity of the  
4 commodity for either wholesale or retail sale, exclusive of any auxiliary  
5 container enclosing such packages which individually conform to the  
6 requirements of this act.
- 7 ~~(h)~~ (m) "Milk" means the lacteal secretion, practically free from co-  
8 lostrum, obtained by the complete milking of one or more healthy cows.  
9 Milk that is in final package form for beverage use shall have been pas-  
10 teurized or ultrapasteurized, and shall contain not less than 8.25% milk  
11 solids not fat and not less than 3.25% milkfat. Milk may have been ad-  
12 justed by separating part of the milkfat therefrom, or by adding thereto  
13 cream, concentrated milk, dry whole milk, skim milk, concentrated skim  
14 milk, or nonfat dry milk. Milk may be homogenized. Milk shall be inter-  
15 preted to include goat milk.
- 16 ~~(m)~~ (n) "Milk distributor" means any person who first sells or offers  
17 for sale in Kansas any packaged grade A pasteurized milk, milk product,  
18 or dairy product.
- 19 ~~(n)~~ (o) "Milk hauler/sampler" means any person who collects official  
20 samples and may transport raw milk from a farm or raw milk products to  
21 or from a milk plant or both, receiving station or transfer station and has  
22 in their possession a permit from any state to sample such products.
- 23 ~~(o)~~ (p) "Milk inspection and regulatory services" means the inspec-  
24 tion, sampling, laboratory testing and the administrative procedures re-  
25 lating thereto, necessary to determine that the production, processing,  
26 distribution and sale of grade A milk, milk products, and dairy products  
27 comply with the requirements of this act and any rules and regulations  
28 adopted hereunder.
- 29 ~~(p)~~ (q) "Milk or cream for manufacturing purposes" means raw milk  
30 or raw cream which is not subject to grade A standards and which is  
31 produced for processing and manufacturing into dairy products for hu-  
32 man consumption. Milk for manufacturing purposes may contain less than  
33 3.25% of butterfat and shall be delivered pure, sweet and clean.
- 34 ~~(q)~~ (r) "Milk or cream receiving station" means any place where milk  
35 or cream may be received, collected, handled, processed, stored or col-  
36 lected and prepared for further transporting.
- 37 ~~(r)~~ (s) "Milk or cream transfer station" means any place where milk  
38 or cream are transferred directly from one milk tank truck to another.
- 39 (t) "Milk plant" means any place, premises or establishment where  
40 milk or milk products are collected, handled, processed, stored, pasteur-  
41 ized, ultrapasteurized, aseptically processed, condensed, dried, packaged  
42 or prepared for distribution.
- 43 ~~(s)~~ (u) "Milk processor" means any person who operates any place,

1 premises or establishment where grade A raw milk for pasteurization or  
 2 milk or cream for manufacturing purposes is processed, pasteurized, bot-  
 3 tled or prepared for distribution.

4 (†) (v) “Milk producer” means any person who owns or operates a  
 5 dairy farm and who provides, sells or offers for sale grade A raw milk for  
 6 pasteurization or milk or cream for manufacturing purposes to a milk  
 7 plant, receiving station or transfer station.

8 (†) (w) “Milk products” means cream, light cream, light whipping  
 9 cream, heavy cream, heavy whipping cream, whipped cream, whipped  
 10 light cream, sour cream, acidified sour cream, cultured sour cream, half-  
 11 and-half, sour half-and-half, acidified sour half-and-half, cultured sour  
 12 half-and-half, reconstituted or recombined milk and milk products, con-  
 13 concentrated milk, concentrated milk products, nonfat skim milk, reduced  
 14 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured  
 15 milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk, yo-  
 16 gurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or  
 17 lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium re-  
 18 duced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced  
 19 milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat  
 20 skim milk, aseptically processed and packaged milk and milk products,  
 21 milk, reduced fat or lowfat milk or nonfat skim milk with added safe and  
 22 suitable microbial organisms and any other milk product made by the  
 23 addition or subtraction of milkfat or addition of safe and suitable optional  
 24 ingredients for protein, vitamin or mineral fortification of milk products  
 25 defined herein. Milk products also include those dairy foods made by  
 26 modifying the federally standardized products listed in this section in  
 27 accordance with 21 C.F.R. 130.10, requirements for foods named by use  
 28 of a nutrient content claim and a standardized term. Milk and milk prod-  
 29 ucts which have been retort processed after packaging or which have been  
 30 concentrated, condensed or dried are included in this definition only if  
 31 they are used as an ingredient to produce any milk or milk product de-  
 32 fined herein or if they are labeled as Grade A as adopted and described  
 33 by rules and regulations promulgated under this act. Except as otherwise  
 34 provided, the term milk shall not include dietary products, infant formula,  
 35 ice cream or other desserts, butter or cheese.

36 (x) “Milk tank truck” means the term used to describe both a bulk  
 37 milk pick up tanker and a milk transport tank.

38 (y) “Milk tank truck cleaning facility” means any place, premises or  
 39 establishment, other than a milk plant, receiving station or transfer sta-  
 40 tion, where a milk tank truck is cleaned and sanitized.

41 (z) “Milk transport tank” means a vehicle including the truck and  
 42 tank, used by a bulk milk hauler or sampler to transport bulk shipments  
 43 of milk and milk products from a milk plant, receiving station or transfer

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1 station to another milk plant, receiving station or transfer station.  
 2 (aa) "Milk transportation company" means the person, business or  
 3 entity responsible for a milk tank truck.  
 4 ~~(b)~~ (bb) "Misbranded" has the same meaning as ascribed to it in  
 5 K.S.A. 65-665, and amendments thereto.  
 6 ~~(c)~~ (cc) "On-farm retail sales of milk or milk products" means the  
 7 sale of milk or milk products on the farm by the producer from the pro-  
 8 duction of the dairy herd to the final consumer, so long as the person  
 9 making such sales does not promote the sale of milk or milk products to  
 10 the public in any manner other than by the erection of a sign upon the  
 11 premises of the dairy farm. The advertisement upon any such sign shall  
 12 state that such milk or milk products are raw and shall be in letters of a  
 13 uniform size. Each container in which any unpasteurized milk is sold or  
 14 offered for sale shall be clearly labeled as ungraded raw milk.  
 15 ~~(d)~~ (dd) "Pasteurized" has the same meaning as ascribed to it in 21  
 16 C.F.R. 131.3 and 135.3.  
 17 ~~(e)~~ (ee) "Person" means any individual, plant operator, partnership,  
 18 corporation, company, firm, trustee, association or institution.  
 19 ~~(f)~~ (ff) "Plant fabricating single service articles" means any place  
 20 which manufactures single service articles which are expected to come in  
 21 contact with grade A milk or grade A milk products.  
 22 ~~(g)~~ (gg) "Secretary" means the secretary of the Kansas department  
 23 of agriculture, or the secretary's designee.  
 24 ~~(h)~~ (hh) "Single service article or container" means any container  
 25 having a milk or milk product-contact surface and used in the packaging,  
 26 handling, storage or servicing of grade A milk and is intended for one  
 27 usage only.  
 28 Sec. 2. K.S.A. 65-777 is hereby amended to read as follows: 65-777.  
 29 (a) The secretary, through the department of agriculture's laboratory, may  
 30 test any sample of milk, milk product or dairy product for bacteria or  
 31 somatic cells or perform any other test required by this act or any rules  
 32 and regulations promulgated under this act.  
 33 (b) The secretary is hereby authorized to establish by rules and reg-  
 34 ulations a schedule of fees for such tests performed by the laboratory  
 35 ~~which are not performed for regulatory purposes.~~  
 36 Sec. 3. K.S.A. 2009 Supp. 65-778 is hereby amended to read as fol-  
 37 lows: 65-778. (a) Any person who engages in business as a dairy manu-  
 38 facturing plant shall first apply for and obtain a dairy manufacturing plant  
 39 license from the secretary and shall pay a license fee of \$120, or com-  
 40 mencing July 1, 2002, and ending June 30, 2015, a license fee of ~~\$155~~  
 41 \$200.  
 42 (b) Any person who engages in business as a distributor of milk, milk  
 43 products or dairy products shall first apply for and obtain a milk distrib-

1 utor license from the secretary and shall pay a license fee of \$120, or  
2 commencing July 1, 2002, and ending June 30, 2015, a license fee of ~~\$155~~  
3 \$200. No milk distributor license shall be required for a licensed dairy  
4 manufacturing plant which distributes only those products which it  
5 manufactures.

6 (c) Any person who engages in business as a milk hauler shall first  
7 apply for and obtain a milk hauler license from the secretary and shall  
8 pay a license fee of \$25 or commencing July 1, 2002, and ending June  
9 30, 2015, a license fee of \$35. As part of the application, the secretary  
10 may require the applicant to be tested regarding proper procedures for  
11 sampling, testing and weighing milk or cream and state laws and rules  
12 and regulations.

13 (d) Any person who operates a milk or cream transfer station or milk  
14 or cream receiving station shall first apply for and obtain a milk or cream  
15 station license from the secretary and shall pay a license fee of \$50, or  
16 commencing July 1, 2002, and ending June 30, 2015, a license fee of ~~\$65~~  
17 \$100.

18 (e) Any person who engages in business as a manufacturer of single  
19 service dairy containers or manufacturer of single service dairy container  
20 closures shall first apply for and obtain a single service manufacturing  
21 license from the secretary and shall pay a license fee of \$50, or com-  
22 mencing July 1, 2002, and ending June 30, 2015, a license fee of ~~\$65~~  
23 \$100.

24 (f) *Any person who operates a milk tank truck cleaning facility shall*  
25 *first apply for and obtain a milk tank truck cleaning facility license from*  
26 *the secretary and shall pay a license fee of \$100.*

27 (g) *Any license issued under this section shall be renewed annually.*

28 (h) *The dairy manufacturing plant license, milk distributor license, milk*  
29 *tank truck cleaning facility license, milk or cream station license and sin-*  
30 *gle service manufacturing license shall expire on December 31 of the year*  
31 *for which it was issued unless suspended or revoked by the secretary*  
32 *pursuant to this act. The milk hauler license shall expire on June 30 fol-*  
33 *lowing the date of issuance unless suspended or revoked by the secretary*  
34 *pursuant to this act.*

35 ~~(i)~~ (i) No license issued under this section shall be transferable. No  
36 license shall be renewed if any assessments or fees required under this  
37 act are delinquent.

38 ~~(j)~~ (j) Each applicant for a license *or for the renewal of such license*  
39 *shall submit an application on a form supplied by the secretary accom-*  
40 *panied by the license fee. All licenses shall be conspicuously displayed in*  
41 *the applicant's place of business.*

42 (k) ~~(l)~~ *Upon a finding that the moneys generated by such license fees*  
43 *as described in subsections (a) through (f) are in excess of the cost required*



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1 ~~to administer the provisions of this act, the secretary is authorized to~~  
2 ~~reduce any such license fee to an amount necessary to carry out the pro-~~  
3 ~~visions of this act.~~

4 ~~(2) Upon a finding that the moneys generated by such license fees as~~  
5 ~~described in subsections (a) through (f) are below the cost required to~~  
6 ~~administer the provisions of this act, the secretary is authorized to in-~~  
7 ~~crease any such license fee, or restore partially or fully a previously re-~~  
8 ~~duced license fee, to an amount necessary to carry out the provisions of~~  
9 ~~this act.~~

10 Sec. 4. K.S.A. 2009 Supp. 65-781 is hereby amended to read as fol-  
11 lows: 65-781. The following fees for the statewide system of milk inspec-  
12 tion and regulatory services are hereby established:

13 (a) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
14 2015, a fee of \$.015 for each 100 pounds of milk produced by milk pro-  
15 ducers under Kansas grade A inspection shall be paid. Each producer is  
16 hereby charged with such fee which shall be paid to the milk producers'  
17 cooperative, milk processor or milk distributor to whom the milk is sold  
18 or delivered. Each cooperative, processor or distributor is hereby charged  
19 with the duty of collecting such fees which shall be remitted to the  
20 secretary.

21 (b) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
22 2015, a fee of ~~\$.015~~ \$.02 for each 100 pounds of packaged grade A pas-  
23 teurized milk or milk products sold in Kansas at retail to the final con-  
24 sumer shall be paid. Each distributor is hereby charged with such fee  
25 which shall be remitted to the secretary.

26 (c) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
27 2015, a fee of ~~\$.015~~ \$.02 per 100 pounds or fraction thereof of grade A  
28 raw milk for pasteurization delivered to a milk processor within the state  
29 of Kansas which is processed into grade A milk or grade A milk products  
30 shall be paid. Each milk processor is hereby charged with such fee which  
31 shall be remitted to the secretary.

32 (d) A milk fee of \$.01, or commencing July 1, 2002, and ending June  
33 30, 2015, a fee of \$.015 per 100 pounds of milk or cream for manufac-  
34 turing purposes produced by milk producers under Kansas manufacturing  
35 grade milk inspection shall be paid. Each producer is hereby charged  
36 with such fee which shall be paid to the milk producers' cooperative, dairy  
37 manufacturing plant or any other person to whom the milk or cream for  
38 manufacturing purposes is sold or delivered. Each cooperative, dairy  
39 manufacturing plant or other person is hereby charged with the duty of  
40 collecting such fees which shall be remitted to the secretary.

41 (e) A fee of \$.0075, or commencing July 1, 2002, and ending June  
42 30, 2015, a fee of ~~\$.01~~ \$.02 per 100 pounds of Kansas produced milk or  
43 cream for manufacturing purposes or other Kansas produced milk deliv-

The secretary is authorized and directed to reduce any license fee in subsections (a) through (f) whenever the secretary determines that such fee is yielding more than is necessary for administering the provisions of this act. The secretary is authorized to increase any license fee in subsections (a) through (f), when such license fee is necessary to produce sufficient revenues for administering the provisions of this act. License fees in subsections (a) through (f) shall not be increased in excess of the amounts provided in this section.

1 ered to a dairy manufacturing plant shall be paid on all Kansas milk used  
2 in the manufacturing of dairy products. As used in this subsection, the  
3 term dairy products shall not include any frozen dairy dessert or frozen  
4 dairy dessert mix. Each dairy manufacturing plant shall pay such fee  
5 which shall be remitted to the secretary.

6 (f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or  
7 commencing July 1, 2002, and ending June 30, 2015, a fee of ~~\$1.50~~ \$2  
8 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix  
9 shall be paid by the manufacturer thereof. Each manufacturer of frozen  
10 dairy dessert or frozen dairy dessert mix is hereby charged with such fee  
11 which shall be remitted to the secretary. Frozen dairy dessert mix which  
12 is further processed into the corresponding frozen dairy dessert by the  
13 manufacturer of the frozen dairy dessert mix shall not be subject to the  
14 fee required by this subsection.

15 (g) A fee of \$1, or commencing July 1, 2002, and ending June 30,  
16 2015, a fee of ~~\$1.50~~ \$2 per thousand gallons of frozen dairy dessert or  
17 frozen dairy dessert mix imported for retail sale in Kansas shall be paid  
18 by the milk distributor who imports these products.

\$50

19 (h) A fee of ~~\$100~~ for the annual inspection of a milk tank truck as  
20 required by this act. The milk transportation company that owns or leases  
21 the milk tank truck shall pay such fee which shall be remitted to the  
22 secretary.

23 (i) If any fee computed pursuant to subsection (a) through (e) is less  
24 than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed  
25 fee. If any fee computed pursuant to subsection (f) or (g) is less than  
26 \$7.50, a minimum fee of \$7.50 shall be paid in lieu of the computed fee.

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

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

34 (2) The fees established in subsections (b), (f) and (g) shall be remit-  
35 ted on April 30, July 31, October 31 and January 31 for the three calendar  
36 months immediately preceding and shall be accompanied by a report, in  
37 the form prescribed by the secretary, indicating the ~~quantity of frozen~~  
38 ~~dairy dessert or frozen dairy dessert mix~~ quantities upon which the re-  
39 mittance is based.

40 (3) The fee established in subsection (h) shall be remitted within 60  
41 days from the date of inspection.

42 (k) Any person who fails to remit all or any part of the required  
43 fee or to submit the required report by the date due may be assessed an

1 additional charge equal to 1% of the amount of delinquent fees for each  
 2 day after the date due, or \$5, whichever amount is greater.

3 ~~(1) (1) Upon a finding that the moneys generated by such license fees~~  
 4 ~~as described in subsections (a) through (f) are in excess of the cost required~~  
 5 ~~to administer the provisions of this act, the secretary is authorized to~~  
 6 ~~reduce any such license fee to an amount necessary to carry out the pro-~~  
 7 ~~visions of this act.~~

8 ~~(2) Upon a finding that the moneys generated by such license fees as~~  
 9 ~~described in subsections (a) through (f) are below the cost required to~~  
 10 ~~administer the provisions of this act, the secretary is authorized to in-~~  
 11 ~~crease any such license fee, or restore partially or fully a previously re-~~  
 12 ~~duced license fee, to an amount necessary to carry out the provisions of~~  
 13 ~~this act.~~

14 Sec. 5. K.S.A. 65-777 and K.S.A. 2009 Supp. 65-771, 65-778 and 65-  
 15 781 are hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after its  
 17 publication in the statute book.

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The secretary is hereby authorized and directed to reduce any inspection fee in subsections (a) through (h) whenever the secretary determines that such fee is yielding more than is necessary for administering the provisions of this act. The secretary is authorized to increase any inspection fee in subsections (a) through (h) when such inspection fee is necessary to produce sufficient revenues for administering the provisions of this act. License fees in subsections (a) through (h) shall not be increased in excess of the amounts provided in this section.