

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 393

As Amended by Senate Committee on
Agriculture

Brief*

SB 393, as amended, would amend several sections of law administered by the Kansas Department of Agriculture to provide that actions such as revocation of a license taken by the Agency would be subject to notice and opportunity for a hearing. Current law requires the notice and the hearing to take place. Sections of law which would be amended by the bill include provisions relating to the licenses of live plant dealers; licenses, permits, registrations, or certificates issued by the Agency for pest control and the pesticide use laws; licenses issued under the Kansas Egg Law; permits issued to chemigation users; licenses issued to public grain warehousemen; registrations issued under the Kansas Meat and Poultry Inspection Act; licenses and permits issued under the Kansas Dairy Law; certain licenses under the Kansas Weights and Measures Law; and civil penalty actions taken by the Secretary for violations of law or rules and regulations under the Department of Agriculture's authority.

A new provision would be enacted to authorize the Secretary of Agriculture to suspend temporarily any licenses and permits issued under the Kansas Dairy Law without hearing and subject to the notice requirements of the emergency adjudication procedures of the provisions of the Kansas Administrative Procedure Act under certain findings of the Secretary. The temporary suspension could not exceed 90 days. After that period of time the license or permit would be reinstated or permanently suspended or revoked.

Background

The bill was introduced at the request of a spokesperson from the Kansas Department of Agriculture (KDA). At the hearing on the bill, the only conferee was a spokesperson from the Agency. The conferee explained that many of the statutes which the Department

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

administers and enforces indicate that action can be taken only after “notice and hearing.” The conferee noted that in some cases the licensee does not appear or does not want a hearing, but the statute requires that a hearing take place. He noted that the process commits resources and incurs costs. With regard to the section of the bill which would enact new law, the conferee indicated that since Kansas has adopted the Grade A Pasteurized Milk Ordinance, one of the requirements is that repeated sanitation violations need to be subject to temporary suspensions of licenses.

The Senate Agriculture Committee amended the bill to make the notice provisions of the temporary suspensions under the Kansas Dairy Law subject to the requirements under the emergency adjudication procedures of the provisions of the Kansas Administrative Procedure Act.

The fiscal note on the original bill states that the KDA indicates the bill would reduce the costs of administrative proceedings because a hearing may not be required in each case. This would also reduce costs for attorneys, witnesses, and hearing officers from the Office of Administrative Hearings. The KDA is not able to estimate what the cost savings would be because the number of hearings that KDA will need to provide is unknown, as the number of hearings fluctuates from year to year.