

HOUSE BILL No. 2158

By Representative Schmoe

Requested by the Kansas Honey Producers Association and the Northeastern
Beekeepers Association

1-29

1 AN ACT concerning agriculture; relating to food; ~~permitting~~ **requiring**
2 beekeepers who meet certain requirements to **register with the**
3 **department of agriculture if such beekeepers wish to** sell packaged
4 honey and honeycombs without holding a food establishment or food
5 processing plant license under the Kansas food, drug and cosmetic act;
6 **providing that registered beekeepers** ~~that meet certain~~
7 ~~requirements~~ **are not required to have a commercial kitchen**
8 ~~facility to hold a license~~ **certain facilities or equipment under such**
9 **act**; amending K.S.A. 65-689 and repealing the existing section.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. (a) As used in this section:

13 (1) "Honey" means the nectar and saccharine exudations of plants
14 that are gathered, modified and stored in the comb by honey bees.

15 (2) "Honeycomb" means a structure of cells composed of beeswax in
16 which bees store honey.

17 (3) "Unaltered" means left raw and in the original state after
18 harvesting and, if applicable, straining. "Unaltered" does not include honey
19 or honeycombs that have been pasteurized.

20 (b) Any beekeeper **who wishes to sell honey or honeycombs for sale**
21 **or resale at a retailer** shall be exempt from the requirement to hold a
22 license pursuant to K.S.A. 65-689, and amendments thereto, **but shall be**
23 **registered with the department of agriculture at no cost to the beekeeper**
24 if such beekeeper meets the following requirements:

25 (1) Honey and honeycombs are packaged on the property of the
26 beekeeper harvesting and selling such products;

27 (2) packaged honey and honeycombs are labeled with the following
28 information in legible English and otherwise be in accordance with state
29 and federal law:

30 (A) A "honey" or "honeycomb" designation. The floral source may be
31 part of the name if the product contains a significant amount of pollen
32 from that flower;

1 (B) the name, address and zip code of the beekeeper packaging the
2 honey or honeycomb; ~~and~~

3 (C) the net weight of the contents; *and*

4 ***(D) a disclaimer stating the following: "Product not subject to
5 routine inspection by the Kansas department of agriculture.";***

6 (3) the beekeeper keeps such honey and honeycombs unaltered and
7 free from additional additives;

8 (4) the hive or hives from which the honey or honeycombs originated
9 ~~was~~ **were** located in the state of Kansas when such honey or honeycombs
10 were harvested;

11 (5) the beekeeper's annual gross sales from honey and honeycombs
12 does not exceed ~~\$50,000; and~~ **\$25,000;**

13 ***(6) the beekeeper follows the minimum sanitary standards adopted
14 by the department for packaging the honey and honeycombs; and***

15 (7) the beekeeper harvesting and selling the honey or honeycombs
16 maintains a record of sales of such products. The record shall be available
17 to the Kansas department of agriculture when requested. The record of
18 sales shall include, but not be limited to:

19 (A) The amount of honey or honeycombs sold by container size;

20 (B) where such honey or honeycombs were sold; and

21 (C) the date of such sales.

22 ***(c) Any beekeeper that ~~meets the requirements of~~ qualifies for
23 registration pursuant to subsection (b)(1), (2), (3), (4) and (6) shall not
24 be required to acquire or maintain a commercial kitchen facility to
25 obtain a license pursuant to K.S.A. 65-689, and amendments thereto
26 facilities or equipment required for temperature-controlled food items,
27 including a kitchen permitted for commercial food preparation.***

28 ***(e)(d) Nothing in this section shall be construed to prohibit a
29 beekeeper from applying for and holding a license pursuant to K.S.A.
30 65-689, and amendments thereto.***

31 ***(e)*** This section shall be a part of and supplemental to the Kansas
32 food, drug and cosmetic act.

33 Sec. 2. K.S.A. 65-689 is hereby amended to read as follows: 65-689.

34 (a) It shall be unlawful for any person to engage in the business of
35 conducting a food establishment or food processing plant unless such
36 person shall have in effect a valid license therefor issued by the secretary.

37 (b) Applications for such licenses shall be made on forms prescribed
38 by the secretary, and each such application shall be accompanied by an
39 application fee and by a license fee. Prior to the issuance of any such
40 license, the secretary shall inspect or cause to be inspected the food
41 establishment or food processing plant designated in the application; to
42 determine that it complies with rules and regulations adopted pursuant to
43 the food, drug and cosmetic act, ~~and amendments thereto.~~ If the food

1 establishment or food processing plant is found to be in compliance; and
2 the completed application and accompanying fees have been submitted,
3 the secretary shall issue the license. If the food establishment or food
4 processing plant is found not to be in compliance, the secretary shall deny
5 the application for a license after providing notice and opportunity for a
6 hearing in accordance with the provisions of the Kansas administrative
7 procedure act.

8 (c) Every license issued hereunder shall be displayed conspicuously
9 in the food establishment or food processing plant for which it is issued,
10 and no such license shall be transferable to any other person or location.
11 Whenever any such license is lost, destroyed or mutilated, a duplicate
12 license shall be issued to any otherwise qualified licensee upon application
13 therefor and the payment of a fee in the amount of \$5.

14 (d) A license shall not be required ~~by~~ *for*:

15 (1) A plant or facility registered or licensed by the department of
16 agriculture pursuant to article 7 of chapter 65 of the Kansas Statutes
17 Annotated, and amendments thereto, or licensed or registered by the
18 department of agriculture pursuant to article 6a of chapter 65 of the Kansas
19 Statutes Annotated, and amendments thereto, shall not be required to
20 obtain a separate license pursuant to this section if the inspections
21 conducted under the respective acts encompass all operations of the
22 facility.

23 (2) A registered nonprofit organization that provides food without
24 charge solely to people who are food insecure, including, but not limited
25 to, soup kitchens and food pantries.

26 (3) A location where prepackaged individual meals are distributed to
27 persons eligible under the federal older Americans act.

28 (4) A person who produces food for distribution directly to the end
29 consumer, if such food does not require time and temperature control for
30 safety or specialized processing, as determined by the secretary.

31 (5) A person who serves food exclusively on interstate conveyances
32 or common carriers.

33 (6) A person operating a food establishment for less than seven days
34 in any calendar year.

35 (7) A person who prepares, serves or sells food for the sole purpose
36 of soliciting funds to be used for community or humanitarian purposes or
37 educational or youth activities.

38 (8) A person operating a food vending machine, if the food vending
39 machine company:

40 (A) Is licensed as a food establishment, or if located in another state,
41 licensed according to the laws of such state;

42 (B) maintains, and makes available to the secretary, a current record
43 of the location of each food vending machine it operates or services; and

1 (C) conspicuously displays the company name, phone number and
2 any additional information the secretary may require on each such vending
3 machine.

4 (9) A person providing only complimentary coffee to its patrons
5 whose primary business is unrelated to operating a food establishment or
6 food processing plant.

7 (10) A person operating a farm winery, as defined in K.S.A. 41-102,
8 and amendments thereto, who does not produce or offer any food products
9 other than wine produced at such farm winery.

10 (11) A retailer, as defined in K.S.A. 41-102, and amendments thereto,
11 that sells only alcoholic liquors and cereal malt beverages.

12 (12) A food establishment that sells or offers for sale only packaged
13 foods that are non-hazardous and are received directly from a licensed
14 food production facility in packaged form, if such food establishment
15 contains less than 200 cubic feet as measured pursuant to K.S.A. 65-
16 688(e), and amendments thereto.

17 (13) A person who provides food samples, without charge, to
18 promote, advertise or compliment the sale of food or associated food
19 preparation equipment.

20 (14) A guest house, as defined in K.S.A. 36-501, and amendments
21 thereto.

22 *(15) A beekeeper who meets the requirements of section 1(b), and*
23 *amendments thereto.*

24 (e) The exemption provided to those entities provided in subsection
25 (d) shall not be exempt from inspection or regulation when a violation is
26 observed or reported to the secretary.

27 (f) A food establishment operated in connection with any premises
28 licensed, registered or permitted by the secretary of health and
29 environment, the secretary for children and families, the secretary of
30 corrections or the secretary for aging and disability services that is
31 inspected and regulated pursuant to the respective law or rule and
32 regulation of such secretary; shall not require a license, and the secretary of
33 agriculture shall not be authorized to inspect or cause such premises to be
34 inspected. This subsection shall not apply to a food establishment whose
35 primary function is not in connection with any premises licensed,
36 registered or permitted pursuant to the respective law or rule and
37 regulation of such secretary.

38 ~~(g) A beekeeper that meets the requirements of section 1(c), and~~
39 ~~amendments thereto, shall not be required to acquire or maintain a~~
40 ~~commercial kitchen facility for licensure pursuant to this act.~~

41 Sec. 3. K.S.A. 65-689 is hereby repealed.

42 Sec. 4. This act shall take effect and be in force from and after its
43 publication in the statute book.