

Approved: 02/03/10

Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on January 27, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Kristen Kellems, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA)
John Donley, Assistant General Counsel, Kansas Livestock Association (KLA)
Mike Bodenhausen, Executive Director, Kansas Dairy Association

Others attending:

See attached list.

Senator Barnett introduced his "shadow", Colby Ratzloff from Emporia.
Senator Lee introduced her "shadow" Larissa Liggett from Lincoln.
Senator Francisco introduced her "shadow", Katie Rorick and her intern, Elizabeth Kever.

Chairman Taddiken welcomed the Kansas Ag Retailers' Association, and the Kansas Grain and Feed Association's Tomorrow's Agribusiness Leader's 2010 Class.

Secretary Svaty, Kansas Department of Agriculture (KDA) requested the introduction of a bill dealing with the water appropriation act, removing the requirement to divert water and allow for conservation to be considered a beneficial use. Senator Francisco moved the introduction of the bill concerning the water appropriation act; seconded by Senator Huelskamp. Motion carried.

Hearing on SB 395 - Changes to dairy, milk and milk product statutes.

Kristen Kellems, Office of the Revisor of Statutes, gave an overview of SB 395. This bill makes changes in various statutes regarding changes to the dairy and milk product statutes.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA) testified in support of SB 395. (Attachment 1) He said that changes have been made to the dairy inspection program which have made the program more efficient. KDA's request for state general funds for this program was denied. He further stated that KDA has developed a fee package that will sustain the program. Mr. Cotsoradis said that without additional funds the dairy inspection program will likely be unfunded in 2012 and the dairy industry then may not be able to ship milk across state lines. He said that maintaining the dairy inspection program through the fee increases in this bill will ensure the viability of the dairy industry and its Grade "A" market.

Mr. Cotsoradis answered questions from the Committee

John Donley, Assistant General Counsel, Kansas Livestock Association (KLA) appeared as a proponent for SB 395. (Attachment 2) He said some efficiencies have been made in the dairy inspection program by the KDA over the last 12-18 months. Mr. Donley also said the KLA has some concerns with the state general fund versus the fee fund balance. The fee increases proposed in SB 395 will sunset in 2015.

Mr. Donley offered to stand for questions.

Mike Bodenhausen, Executive Director, Kansas Dairy Association, offered testimony in support of SB 395. (Attachment 3) He noted that discussions with various stakeholder groups were held on the future of the Dairy Inspection Program. In response to these meetings, the program is now performance based and one Dairy Inspector was laid off. Mr. Bodenhausen said the dairy farmers recognize the budgetary situation the

CONTINUATION SHEET

Minutes of the Senate Agriculture Committee at 8:30 a.m. on January 27, 2010, in Room 144-S of the Capitol.

state is facing and they are willing to do their part by agreeing to the fee increases.

Mr. Bodenhausen stood for questions.

Written testimony in opposition to **SB 395** was submitted by Randy McGinnis, Chief Operating Officer, Dairy Farms of America. (Attachment 4)

Hearing was closed on **SB 395**.

Chairman Taddiken asked members of the Leader Class 2010 to give their name and town.

Discussion was opened on **SB 394 - Pesticide education**. A copy of proposed changes to **SB 394** was distributed to Committee members (Attachment 5). The proposed changes reflect a request from the professional trade associations to be included in the "other person" The first change is to strike line 15 and add "*any other educational institutions of this state or of any other state, state and federal agencies, or any other person.*" Other proposed changes were: to delete the first "or", line 21 and "or of" at the end of the same line. Another change suggested was to add "*other*" in front of "person" in line 22. Senator Bruce made a motion to adopt the proposed changes to **SB 394**, seconded by Senator Lee. Motion carried. Amendment is adopted.

Motion was made by Senator Barnett to pass **SB 394** as amended; seconded by Senator Bruce. Motion carried.

Discussion was opened on **SB 393 - Department of Agriculture administrative hearings**.

Ms. Kellems, explained the proposed amendments concerning hearing notice requirements (Attachment 6).

Senator Bruce moved adoption of the proposed amendments to **SB 393**; seconded by Senator Pyle. Motion carried.

A motion was made to pass **SB 393** as amended; seconded by Senator Bruce. Motion carried

The next meeting is scheduled for February 2, 2010.

The meeting was adjourned at 9:18 a.m.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE:

January 27, 2010

NAME	REPRESENTING
Rick Brumfield	Dairy Farmers of America
Mike Bradburn	KANSAS DAIRY ASSOCIATION
LANE LETOURNEAU	KDA - DWR
John Denton	KS Lusk Ass'n
Eric Wisner	KDA (Dept. of Ag)
Arnold P... ..	KLR BAC
Kent Askren	KFB
BRAD HARRELSON	KFB
Katie Howard	KDA
Lexie Kaufman	KS CO-OP COUNCIL
Kerry Watson	KAPA
Jim Borcher	KCEA
Matt Hines	KGFA
DAUG BSWERL	KGFA
Blatt Frieson	KARA
Jason Lovel	KARA
JONATHAN MAYES	KGFA
KYLE ADAMS	KCFA
Justin Ochs	KARA

Jim Grilliot

KARA

**Testimony on Senate Bill 395
to
the Senate Agriculture Committee**

**by Constantine V. Cotsoradis
Deputy Secretary
Kansas Department of Agriculture**

January 27, 2010

Good morning, Chairman Taddiken and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here in support of Senate Bill 395.

The dairy inspection program serves two main purposes. One is to provide consumer protection and confidence that milk is safe and wholesome. The other purpose is to provide inspections as specified in the interstate milk shippers' agreement. Failure to comply with this agreement could adversely affect the state's Grade "A" dairy market.

Representatives from the dairy industry and their respective associations met with us beginning soon after last session. We were in agreement that the dairy inspection program was important, but the questions of whether there were efficiencies that could be realized and how to fund the program left room for discussion.

I can report that we have made changes to the program, such as performance-based inspections, that have made the program more efficient. Also, despite having our request for state general funds denied, we have developed through our discussion with the stakeholder group a fee package that will sustain the program. This bill increases some fees and adopts some new fees but only at levels necessary to adequately fund the program.

We understand the reality of seeking a fee increase at this time, but the alternative is far less desirable. Without additional funds, the dairy inspection program likely will be unfunded in 2012 and the dairy industry then may not be able to ship their milk across state lines. This is a real possibility as we have had to suspend or cease other programs in the agency due to budget reductions.

The dairy industry is very important to this state's economy and to the rural areas in which they are located. Maintaining the dairy inspection program through the fee increases in this bill will ensure the viability of the dairy industry and its Grade "A" market.

I will answer questions at the appropriate time.

*Senate Agriculture Committee
January 27, 2010
Attachment 1*



Since 1894

TESTIMONY

To: Senate Agriculture Committee
Senator Mark Taddiken, Chairman

From: John Donley, Assistant General Counsel

Date: January 27, 2010

Re: SB 395 – Dairy Fee Bill

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.

My name is John Donley, and I am Assistant General Counsel for the Kansas Livestock Association. I appreciate the opportunity to provide testimony and discuss KLA's position on SB 395.

Last year, KLA opposed a House bill that would increase the fees to fund the Kansas Department of Agriculture's Dairy Program. KLA had two main concerns with the proposal from last year. First, we felt that the Department could still find efficiencies within the program and a fee increase was not necessary. Second, the fee schedule proposed last year would have exacerbated the inequity in the current fee structure by relying more on large dairies.

Fortunately, the Department of Agriculture and other stakeholder groups were willing to compromise on these issues, and this bill is the result of that compromise. In order to become more efficient, the Department has gone to a performance based inspection schedule as well as finding other internal efficiencies within the program. With regards to the second issue of the inequity of the fee structure, KLA feels that the proposal in SB 395 is more equitable than last year's proposal because not as much of the burden to fund the Dairy Program will be placed on the larger dairies.

Essentially, SB 395 increases the fee charged to milk processors and distributors in the state from \$0.015 per 100 pounds to \$0.02 per 100 pounds of milk. While we recognize that much of this cost will flow through the marketplace and be a burden on producers, we also appreciate the fact that this proposal will not have as direct of an impact on dairy producers during a time where the dairy industry's profitability has significantly struggled.

The state's dairy inspection program is important because a state inspection is necessary to meet the requirements of the International Milk Shippers Agreement. However, it should also

*Senate Agriculture Committee
January 27, 2010
Attachment 2-1*

be noted that these inspections have a general public benefit. It is important to point out that this program should be funded through more state general fund dollars in the future to reflect the benefit the public receives. We understand that these are tough budgetary times and are therefore willing to agree to a fee increase that will sunset in 2015. However, this support comes with the desire that state general fund dollars will begin to provide a higher percentage of the funding of this program in the future.

KLA would encourage you to look favorably towards SB 395 and understand that the dairy industry understands the importance of providing a safe product to the consumer while allowing the growing Kansas dairy industry the continued opportunity to export our product out of this state. I would be happy to stand for questions at the appropriate time.

Testimony

To: Senate Agriculture Committee

Senator Mark Taddiken, Chairman

From: Mike Bodenhausen, Executive Director, Kansas Dairy Association

Date: January 27, 2010

Re: SB 395 – Dairy Fee Bill

My name is Mike Bodenhausen, and I am the Executive Director of the Kansas Dairy Association. I want to thank you for this opportunity to provide testimony in support of SB 395.

Having been in the dairy business myself for over 40 years, I fully understand the importance of a good Dairy Inspection Program. Without an effective program, we would not be able to sell and ship Grade A milk across state lines. Since Kansas only uses about 20% of the milk that is produced within the state, it is a must that we maintain a program that meets the requirements of the International Milk Shippers Agreement and the Pasteurized Milk Ordinance(PMO).

Last summer the Department of Agriculture began discussions with various stakeholder groups on the fate and future of the Dairy Inspection Program. It was very evident the program was in need of financial support. Our first response and request to the Department was to carefully scan the program for inefficiencies. Our second request was to begin looking at a Performance-Based Dairy Inspection Program. This program allows more flexibility to the number of inspections and is based on performance of past inspections. Yet this system allows the Dairy Inspection Program to meet the necessary standards and requirements needed to meet the PMO.

The Department met both of these challenges. One Dairy Inspector was let go and the Performance-Based Inspection Program was successfully implemented. This however, did not meet all the financial needs of the program. Thus we began discussing fee increases. Now we probably would not have had to go down this road had we continued to receive some State General Funds. But since we understand the budgetary situation the State is facing, we felt we could do our part. Since the Department was only asking for a ½ cent per hundred weight increase in inspection fees we felt this could be met. (This actually only amounts to about .04 cents per gallon). Because dairy producers had experienced a “disastrous” 2009, we suggested that the needed fee increase start ^{with} processors and distributors.

I want to extend my sincerest thanks to the Department of Agriculture for listening to and working with us on this issue. This is a program that the dairy industry in Kansas can be proud of and one that we must all continue to support, from producers to processors to consumers.

Senate Agriculture Committee
January 27, 2010
Attachment 3-1

My passion for the dairy industry is never ending. Knowing and recognizing the importance of the Dairy Inspection Program leads me to asking you to support SB 395.

I would be more than happy to answer any questions at this time or at any other appropriate time.



Dairy Farmers of America

Dairy Farmers of America (DFA) is extremely disappointed that Senate Bill No. 395 is requesting an increase in funds from industry sources to operate the Kansas dairy industry inspection programs going forward.

DFA understands that increases in dairy farm milk production levels and annual reductions in the number of dairy farms operating in Kansas, coupled with other farm inspection program changes i.e. performance based farm inspections stand behind the rationale for not requesting an increase in fees at the farm level at this time.

However the continual shift in the source of revenues to operate the Kansas dairy industry inspection programs from the State General Fund to industry funding is concerning and alarming. What was once many, many years ago a 50/50 relationship in those funding sources has become, without digging deeply into the numbers, closer to a 30% sourcing from the State General Fund and a 70% sourcing from industry.

DFA requests an immediate accounting to verify those funding relationships and an annual recalculation of that annual funding relationship. With the new language in Section 3 (k) and Section 4 (l) that provides the secretary authority to adjust license fees, DFA advocates for a commitment that (1) steps are taken to move that annual relationship closer to the 50/50 level each year and (2) no future increases in industry funding levels are considered unless the annual funding relationship has been brought closer to 50/50.

DFA thanks the committee for this opportunity to provide comments and along with its dairy farmer member/owners stand ready to assist in any way possible to make the Kansas Dairy Inspection program successful in a more equitable relationship between general funds and industry funds.

Sincerely,

Dairy Farmers of America, Inc.

Randy McGinnis
Chief Operating Officer
Central Area Council

*Senate Agriculture Committee
January 27, 2010
Attachment 4*

SENATE BILL No. 394

By Committee on Agriculture

1-19

9 AN ACT concerning pesticide education; amending K.S.A. 2-2459a and
10 2-2460a and repealing the existing sections.

11

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

13 Section 1. K.S.A. 2-2459a is hereby amended to read as follows: 2-
14 2459a. The secretary may, in cooperation with Kansas state university,
15 ~~other educational institutions, state and federal agencies, or other person,~~
16 publish information and conduct short courses of instruction in the safe
17 use and application of pesticides.

18 Sec. 2. K.S.A. 2-2460a is hereby amended to read as follows: 2-
19 2460a. The secretary may cooperate or enter into formal agreements with
20 any other agency or educational institution of this state or its subdivisions
21 ~~or, with any agency or educational institution of any other state or of,~~
22 ~~with the federal government, or with any person~~ for the purpose of car-
23 rying out the provisions of this act or securing uniformity of regulations.

24 Sec. 3. K.S.A. 2-2459a and 2-2460a are hereby repealed.

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

any other educational institutions of this state or of any other state, state and federal agencies, or any other person,

other

Reviser's Office

Senate Agriculture Committee
January 27, 2010
Attachment 5

SENATE BILL No. 393

By Committee on Agriculture

1-19

9 AN ACT concerning agriculture; relating to administrative hearings;
10 amending K.S.A. 34-298, 65-6a34a, 83-308 and 83-407 and K.S.A.
11 2009 Supp. 2-2122, 2-2449, 2-2469, 2-2512, 2-3311, 65-780 and 74-
12 596 and repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) The secretary may suspend temporarily any li-
16 cense or permit issued under K.S.A. 65-778 and 65-779, and amendments
17 thereto, ~~without notice or hearing in accordance with~~ the emergency ad-
18 judication procedures of the provisions of the Kansas administrative proce-
19 dure act if the secretary finds all of the following:

without a hearing and
subject to the notice
requirements of

20 (1) The licensee or permit holder failed to comply with any provision
21 or requirement of K.S.A. 65-771 to 65-791, and amendments thereto, or
22 any rules and regulations promulgated thereunder; and

23 (2) public health or safety is endangered as a result thereof.

24 (b) In no case shall a temporary suspension of a license or permit
25 under this section be in effect for a period of time in excess of 90 days.
26 At the end of such period of time, the license or permit shall be reinstated
27 unless the secretary has suspended or revoked the license or permit, after
28 notice and opportunity for hearing, or the license or permit has expired.

29 (c) This section shall be a part of and supplemental to the provisions
30 of K.S.A. 65-771 to 65-791, inclusive, and acts amendatory thereof or
31 supplemental thereto.

32 Sec. 2. K.S.A. 2009 Supp. 2-2122 is hereby amended to read as fol-
33 lows: 2-2122. If it is found that any live plant dealer license issued by the
34 secretary is being used in connection with live plants which do not meet
35 the quarantines and regulated nonquarantine pest freedom standards es-
36 tablished by the secretary, or other precautionary measures prescribed
37 by the secretary under the provisions of this act and amendments thereto,
38 or if it is found that any live plant dealer's license is being used by a
39 person other than the one to whom it was issued, the secretary may re-
40 ~~quire the owner of the license to appear~~ *revoke the live plant dealer's*
41 *license after notice and opportunity for a hearing, on a specified date, to*
42 ~~be conducted~~ *are given* in accordance with the provisions of the Kansas
43 administrative procedure act to show cause why the license should not

Revisor's Office

Senate Agriculture Committee
January 27, 2010
Attachment 6-1

1 be revoked. ~~If, after such hearing, the secretary finds that such license~~
2 ~~has been wrongfully used in one or more of the ways specified in this~~
3 ~~section, or if the owner of such license fails to appear at such hearing,~~
4 ~~the secretary may issue an order revoking such license.~~

5 Sec. 3. K.S.A. 2009 Supp. 2-2449 is hereby amended to read as fol-
6 lows: 2-2449. The secretary may deny, suspend, revoke or modify the
7 provisions of any license, registration, permit or certificate issued under
8 this act, if the secretary finds, after notice and ~~hearing, conducted op-~~
9 ~~portunity for a hearing are given~~ in accordance with the provisions of the
10 Kansas administrative procedure act, that the applicant, licensee, regis-
11 trant, permit holder or certificate holder has:

12 (a) Been convicted of or pleaded guilty to a violation of this act, or
13 been convicted of or pleaded guilty to a felony under the laws of this state
14 or of the United States, if the secretary determines, after investigation,
15 that such person has not been sufficiently rehabilitated to warrant the
16 public trust;

17 (b) failed to comply with any provision or requirement of this act or
18 any rule and regulation adopted thereunder, or any of the laws or rules
19 and regulations of any other state or the United States relating to licensing
20 or other provisions concerning pesticide use or control; or

21 (c) had any license, certificate, registration or permit issued to the
22 person under this act, or the pest control or pesticide use laws of any
23 other state revoked.

24 Sec. 4. K.S.A. 2009 Supp. 2-2469 is hereby amended to read as fol-
25 lows: 2-2469. (a) Each person who is a pesticide dealer shall register with
26 the secretary. Registration shall be required for each business location
27 distributing pesticides and shall be on a form provided by the secretary.
28 Each registration shall expire on June 30 following issuance unless such
29 registration is renewed annually. A registration fee of \$20 shall accompany
30 the application.

31 (b) The provisions of this section shall not apply to a licensed pesti-
32 cide business which sells pesticides only as an integral part of such busi-
33 ness' pesticide application service when the pesticides are dispensed only
34 through equipment used for this pesticide application, nor to the sale of
35 general use pesticides purchased for household use only, nor to any fed-
36 eral, state, county or municipal agency which provides pesticides only for
37 its own programs nor to any individual who is the final purchaser of a
38 pesticide for application to property or property rights owned, leased, or
39 otherwise acquired by such person.

40 (c) Each registered pesticide dealer is responsible for the acts of each
41 individual employed by such dealer in the solicitation and sale of pesti-
42 cides and for all claims and recommendations for use of pesticides *made*
43 *by such employees*. The dealer's registration shall be subject to denial,

1 suspension, or revocation after *notice and opportunity for a hearing are*
 2 *given* in accordance with the provisions of the Kansas administrative proce-
 3 dure act for any violation of this act whether committed by the dealer
 4 or by the dealer's officers, agents or employees.

5 (d) All fees received under this section shall be remitted to the state
 6 treasurer in accordance with K.S.A. 2-2464a and amendments thereto.
 7 Upon receipt of each such remittance, the state treasurer shall deposit
 8 the entire amount thereof in the state treasury and 75% of such amount
 9 shall be credited to the pesticide use fee fund and 25% of each such
 10 amount shall be credited to the publications fee fund of the Kansas de-
 11 partment of agriculture.

12 Sec. 5. K.S.A. 2009 Supp. 2-2512 is hereby amended to read as fol-
 13 lows: 2-2512. (a) The secretary may deny, suspend, revoke or modify the
 14 provisions of any license issued under this act, if the secretary finds, after
 15 notice and *opportunity for a hearing, conducted are given* in accordance
 16 with the provisions of the Kansas administrative procedure act, that the
 17 applicant, licensee or permit holder has:

delete comma

18 (1) Been convicted of or pleaded guilty to a violation of the Kansas
 19 egg law, and amendments thereto, or been convicted of or pleaded guilty
 20 to a felony under the laws of this state or of the United States, if the
 21 department determines, after investigation, that such person has not been
 22 sufficiently rehabilitated to warrant the public trust;

23 (2) failed to comply with any provision or requirement of this act or
 24 any rule and regulation adopted thereunder, or any of the laws or rules
 25 and regulations of any other state or the United States relating to licensing
 26 or other provisions concerning eggs; or

27 (3) had any license, certificate or permit issued to the person under
 28 the Kansas egg law, and amendments thereto, or the egg laws of any other
 29 state revoked.

30 (b) The provisions of this section shall be part of and supplemental
 31 to the Kansas egg law.

32 Sec. 6. K.S.A. 2009 Supp. 2-3311 is hereby amended to read as fol-
 33 lows: 2-3311. ~~Before any chemigation user registration or~~ *The secretary*
 34 *may revoke, deny renewal or suspend, for any cause, a chemigation user's*
 35 *permit shall be revoked, denied renewal or before it shall be suspended*
 36 *for any cause, the secretary shall conduct a hearing, after notice and*
 37 *opportunity for a hearing are given* in accordance with the provisions of
 38 the Kansas administrative procedure act. The notice of hearing shall be
 39 sent to the registrant or permit holder at least 15 days prior to the hearing
 40 date and shall be served upon the registrant or permit holder by letter
 41 sent to at such person's address as shown by the records of the secretary,
 42 setting out the time and place of the hearing and alleged grounds for
 43 revocation or suspension. The registrant or permit holder shall have the

1 right to appear in person and by counsel and to testify and introduce
2 evidence. If such person fails to appear, the matter may be heard in such
3 person's absence. Any such hearing may be conducted by the secretary
4 or a presiding officer from the office of administrative hearings.

5 Sec. 7. K.S.A. 34-298 is hereby amended to read as follows: 34-298.

6 (a) Unless otherwise provided in this act, any person or entity that violates
7 any provision of this act is guilty of a class A nonperson misdemeanor.

8 (b) ~~If, after a hearing conducted in accordance with the provisions of~~
9 ~~the Kansas administrative procedure act, after notice and opportunity for~~
10 ~~a hearing are given in accordance with the Kansas administrative pro-~~
11 ~~cedure act, the secretary finds that the provisions of this act have been~~
12 ~~violated by any person, holding a license to conduct a public warehouse~~
13 ~~in this state, the secretary shall revoke the person's license. No new li-~~
14 ~~cence shall be granted to the person whose license is revoked or to anyone~~
15 ~~engaged, either directly or indirectly, in the public warehouse business~~
16 ~~with that person for a period of one year.~~

17 Sec. 8. K.S.A. 65-6a34a is hereby amended to read as follows: 65-
18 6a34a. (a) The secretary may deny, suspend, revoke or modify the pro-
19 visions of any registration issued under the Kansas meat and poultry in-
20 spection act, if the secretary finds, after notice and ~~hearing opportunity~~
21 ~~for a hearing are given in accordance with the Kansas administrative~~
22 ~~procedure act, that the applicant or registrant has:~~

23 (1) Been convicted of or pleaded guilty to a violation of the Kansas
24 meat and poultry inspection act or any rule and regulation promulgated
25 thereunder;

26 (2) failed to comply with any provision or requirement of the Kansas
27 meat and poultry inspection act or any rule and regulation adopted
28 thereunder;

29 (3) interfered with or prevented the secretary or any authorized in-
30 spector or any other authorized representative of the secretary from the
31 performance of that person's job duties regarding any inspection or the
32 administration of the provisions of the Kansas meat and poultry inspection
33 act; or

34 (4) denied the secretary or any authorized representative of the sec-
35 retary access to any premises required to be inspected under the provi-
36 sions of the Kansas meat and poultry inspection act.

37 ~~(b) Before any registration shall be suspended, modified, revoked or~~
38 ~~denied renewal, the secretary shall inform the registrant of the date and~~
39 ~~place of hearing upon such proposed revocation, denial or suspension.~~
40 ~~The hearing shall be conducted in accordance with the provisions of the~~
41 ~~Kansas administrative procedure act.~~

42 ~~(c) (b) The registration holder may appeal from the decision and or-~~
43 ~~der, in accordance with the provisions of the act for judicial review and~~

1 ~~civil enforcement of agency actions.~~

2 ~~(c)~~ (c) This section shall be part of and supplemental to the Kansas
3 meat and poultry inspection act, article 6a of chapter 65 of the Kansas
4 Statutes Annotated, and amendments thereto.

5 Sec. 9. K.S.A. 2009 Supp. 65-780 is hereby amended to read as fol-
6 lows: 65-780. The secretary may deny, suspend, revoke or modify or re-
7 fuse to renew the provisions of any license or permit issued under this
8 act if the secretary finds, after notice and *opportunity for a hearing con-*
9 ~~ducted are given~~ in accordance with the provisions of the Kansas admin-
10 istrative procedure act that the applicant, licensee or permit holder or
11 any agent or employee, thereof has:

12 (a) Been convicted of or pleaded guilty to a violation of this act or
13 any rules and regulations promulgated thereunder;

14 (b) failed to comply with any provision or requirement of this act or
15 any rules and regulations promulgated thereunder;

16 (c) interfered with the secretary in the performance of any job duties
17 regarding any inspection or the administration of the provisions of this
18 act;

19 (d) denied access to premises required to be inspected under the
20 provisions of this act;

21 (e) failed to pay or remit any required fee or fees, or any part thereof;
22 or

23 (f) failed to submit a required report, or submitted a false report.

24 Any such hearing shall be held by the secretary or a presiding officer
25 from the office of administrative hearings.

26 Sec. 10. K.S.A. 2009 Supp. 74-596 is hereby amended to read as
27 follows: 74-596. (a) Any person or entity who shall violate any of the
28 provisions transferred to and imposed upon the department of agriculture
29 and secretary of agriculture pursuant to K.S.A. 2009 Supp. 74-581, and
30 amendments thereto, or the rules and regulations adopted thereunder,
31 may incur a civil penalty in an amount not more than \$1,000 per violation,
32 and in the case of a continuing violation every day such violation continues
33 may be deemed a separate violation. Such civil penalty may be assessed
34 in addition to any other penalty provided by law. *The secretary of agri-*
35 *culture may assess the civil penalty after notice and opportunity for a*
36 *hearing are given in accordance with the Kansas administrative procedure*
37 *act. Any civil penalty assessed pursuant to this subsection is subject to*
38 *review in accordance with the act for judicial review and civil enforcement*
39 *of agency actions.*

40 (b) Any person or entity who shall violate any of the provisions trans-
41 ferred to and imposed upon the department of agriculture and secretary
42 of agriculture pursuant to K.S.A. 2009 Supp. 74-581, and amendments
43 thereto, or the rules and regulations adopted thereunder, in an intentional

1 or reckless manner shall be guilty of a class A, nonperson misdemeanor.
2 (c) Any food misbranded or adulterated or containing or suspected
3 of containing any substance or substances injurious to public health or
4 which is offered or exposed for sale in violation of any of the provisions
5 transferred to and imposed upon the department of agriculture and sec-
6 retary of agriculture pursuant to K.S.A. 2009 Supp. 74-581, and amend-
7 ments thereto, or the rules and regulations adopted thereunder, shall be
8 subject to seizure in place until such time that the final disposition of the
9 food has been determined by sampling and analysis. Within 30 days of
10 seizure in place, upon verification that the suspected food was mis-
11 branded, adulterated or contains a substance or substances that may be
12 injurious to public health the secretary of agriculture shall issue an order
13 establishing measures to prevent further contamination or the threat to
14 public health. The opportunity for hearing pursuant to the Kansas ad-
15 ministrative procedure act shall be provided upon issuance of the order.
16 The secretary of agriculture may order the destruction of contaminated
17 food if no alternative assures that further contamination of [or] health
18 hazards are averted, and may be imposed in addition to any other penalty
19 established by law. The district courts of the state of Kansas shall have
20 jurisdiction to restrain violations of the provisions transferred to and im-
21 posed upon the department of agriculture and secretary of agriculture
22 pursuant to K.S.A. 2009 Supp. 74-581, and amendments thereto, and the
23 rules and regulations adopted thereunder, by injunction.

24 Sec. 11. . K.S.A. 83-308 is hereby amended to read as follows: 83-308.
25 At any time after *notice and opportunity for a hearing are given* in ac-
26 cordance with the provisions of the Kansas administrative procedure act,
27 the secretary may revoke, suspend, decline to renew or decline to issue
28 a service company license or technical representative's license, when the
29 service company or technical representative:

30 (a) Has refused to provide the secretary with reasonably complete
31 and accurate information regarding methods used, materials used or work
32 performed as required by the secretary;

33 (b) has failed to comply with any provision or requirement of chapter
34 83 of the Kansas Statutes Annotated, and amendments thereto or any
35 rules and regulations adopted thereunder;

36 (c) has failed to perform work in a manner consistent with the stan-
37 dards set forth in chapter 83 of the Kansas Statutes Annotated, and
38 amendments thereto, or any rules and regulations adopted thereunder;
39 or

40 (d) has committed an unlawful act as established in K.S.A. 83-219,
41 and amendments thereto.

42 Sec. 12. K.S.A. 83-407 is hereby amended to read as follows: 83-407.
43 At any time after *notice and opportunity for a hearing held are given* in

1 accordance with the provisions of the Kansas administrative procedure
2 act, the secretary may revoke, suspend, decline to renew or decline to
3 issue a service company license or a technical representative's license,
4 when the service company or technical representative:

5 (a) Has refused to provide the secretary with reasonably complete
6 and accurate information regarding methods used, materials used or work
7 performed;

8 (b) has failed to comply with any provision or requirement of chapter
9 83 of the Kansas Statutes Annotated, and amendments thereto, or any
10 rules and regulations adopted thereunder;

11 (c) has failed to perform work in a manner consistent with the stan-
12 dards set forth in chapter 83 of the Kansas Statutes Annotated, and
13 amendments thereto, or any rules and regulations adopted thereunder;
14 or

15 (d) has committed an unlawful act pursuant to K.S.A. 83-219, and
16 amendments thereto, or any rules and regulations adopted thereunder.

17 Sec. 13. K.S.A. 34-298, 65-6a34a, 83-308 and 83-407 and K.S.A.
18 2009 Supp. 2-2122, 2-2449, 2-2469, 2-2512, 2-3311, 65-780 and 74-596
19 are hereby repealed.

20 Sec. 14. This act shall take effect and be in force from and after its
21 publication in the statute book.