

SENATE BILL No. 287

By Committee on Agriculture and Natural Resources

1-16

1 AN ACT concerning agriculture; relating to the Kansas department of
2 agriculture; activities requiring a live plant dealer's license; license
3 renewal dates and late fees; amending K.S.A. 47-1208 and K.S.A. 2017
4 Supp. 2-2120, 2-2440, 2-2440b, 2-2905, 36-505, 47-1001e, 47-1503,
5 47-1805, 47-2101 and 65-691 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2017 Supp. 2-2120 is hereby amended to read as
9 follows: 2-2120. (a) Every live plant dealer, ~~before selling or offering for~~
10 ~~sale or delivering any live plants in this state,~~ *engaging in the business of a*
11 *live plant dealer, as defined in K.S.A. 2-2113(f), and amendments thereto,*
12 shall procure from the secretary a live plant dealer's license for each
13 location from which such live plant dealer engages in business as a live
14 plant dealer.

15 (b) Application for such license shall be made on a form furnished by
16 the secretary. The fee for each application shall be fixed by rules and
17 regulations adopted by the secretary, except that such fee shall not exceed
18 \$80, excluding the plant pest emergency fee, authorized pursuant to K.S.A.
19 2017 Supp. 2-2129, and amendments thereto.

20 (c) A live plant dealer shall not be required to obtain a license if such
21 live plant dealer does not import or export plants into or from the state and
22 the annual gross receipts of such live plant dealer's business is less than
23 \$10,000.

24 (d) Such live plant dealer's license shall expire on January 31,
25 following date of issue.

26 (e) *Payment of a late fee equal to 40% of the current application fee*
27 *shall be assessed to every live plant dealer that fails to renew such license*
28 *prior to February 1 of each year and that engages in the business of a live*
29 *plant dealer.*

30 (f) A live plant dealer may only engage in the live plant business with
31 live plants ~~which~~ *that are:*

32 (1) In compliance with all quarantines and regulated nonquarantine
33 pest freedom standards established by the secretary; or

34 (2) accompanied by a valid certificate of inspection of a federal
35 inspector or inspector of another state stating that such live plants comply
36 with all applicable quarantines and regulated nonquarantine pest freedom

1 standards.

2 Sec. 2. K.S.A. 2017 Supp. 2-2440 is hereby amended to read as
3 follows: 2-2440. (a) Subject to the provisions of subsection (d), it is
4 unlawful for any pesticide business—~~which~~ *that* has not been issued a
5 pesticide business license to:

6 (1) Advertise, offer for sale, sell or perform any service for the
7 control of a pest on the property of another or apply a pesticide to the
8 property of another within this state; or

9 (2) perform any service for the control of a pest or apply any
10 pesticide on or at the premises of another person under any commission,
11 division of receipts or subcontracting arrangement with a licensed
12 pesticide business.

13 Nothing in this subsection shall be construed to require the licensing of
14 any person applying restricted use pesticides to the property of another as
15 a certified private applicator or under the supervision of a certified private
16 applicator.

17 (b) Application for a pesticide business license or renewal shall be
18 made on a form obtained from the secretary and shall be accompanied by
19 an application fee per category in which the licensee applies, and an
20 additional fee for each uncertified individual employed by the applicant to
21 apply pesticides. The application fee per category shall be \$140 per
22 category in which the licensee applies, except that on and after July 1,
23 2023, the application fee per category shall be \$112 per category in which
24 the licensee applies. An additional fee of \$15 shall be paid for each
25 uncertified individual employed by the applicant to apply pesticides,
26 except that on and after July 1, 2023, an additional fee of \$10 shall be paid
27 for each uncertified individual employed by the applicant to apply
28 pesticides. The application fee per category and the additional fee for each
29 uncertified employee in effect on the day preceding the effective date of
30 this act shall continue in effect until the secretary adopts rules and
31 regulations fixing a different fee under this subsection. Any uncertified
32 individual employed for a period of more than 10 days in a 30-day period
33 or for five consecutive days by a licensee to apply pesticides subsequent to
34 such application shall be reported to the secretary within 30 days of such
35 employee's hiring and the fee shall be paid at that time. Each application
36 shall also include the following:

37 (1) The business name of the person applying for such license or
38 renewal;

39 (2) if the applicant is an individual, receiver, trustee, representative,
40 agent, firm, partnership, association, corporation or other organized group
41 of persons, whether or not incorporated, the full name of each owner of the
42 firm or partnership or the names of the officers of the association,
43 corporation or group;

1 (3) the principal business address of the applicant in the state and
2 elsewhere; and

3 (4) any other information the secretary, by rules and regulations,
4 deems necessary for the administration of this act.

5 (c) The secretary may issue a pesticide business license to apply
6 pesticides in categories for which an applicant has applied if the applicant
7 files the bond, insurance, letter of credit or proof of an escrow account as
8 required under K.S.A. 2-2448, and amendments thereto, satisfies the
9 requirements of subsection (b), and pays the required fees. Such license
10 shall expire at the end of the calendar year for which it is issued unless it
11 has been revoked or suspended prior thereto. *Failure to renew such license*
12 *prior to January 1 of each year shall result in a late fee equal to 40% of*
13 *the current application fee.* If a license is not issued as applied for, the
14 secretary shall inform the applicant in writing of the reasons therefor.

15 (d) The following persons shall be exempted from the licensing
16 requirements of this act:

17 (1) State or federal personnel using pesticides or pest control services
18 while engaged in pesticide use research;

19 (2) veterinarians or physicians using pesticides as a part of their
20 professional services; and

21 (3) any person or such person's employee who applies pesticides on
22 or at premises owned, leased or operated by such person.

23 (e) Subject to the provisions of subsection (d), it is unlawful for any
24 governmental agency ~~which~~ *that* has not been issued a government agency
25 registration to apply pesticides within this state. Application for
26 government agency registration shall be made on a form obtained from the
27 secretary and shall be accompanied by a fee fixed by rules and regulations
28 adopted by the secretary, except that such fee shall not exceed \$50, except
29 that on and after July 1, 2023, such fee shall not exceed \$35. The
30 governmental agency registration fee in effect on the day preceding the
31 effective date of this act shall continue in effect until the secretary adopts
32 rules and regulations fixing a different fee therefor under this subsection.
33 No fee shall be required of any township located within a county ~~which~~
34 *that* has previously applied for and received government agency
35 registration. Each application for registration shall contain information
36 including, but not limited to:

37 (1) The name of the government agency;

38 (2) the mailing address of the applicant;

39 (3) the name and mailing address of the person who heads such
40 agency and who is authorized to receive correspondence and legal papers.
41 Such person shall be: (A) The mayor or city manager for municipalities;
42 (B) the chairperson of the board of county commissioners for counties; (C)
43 the township trustee for townships; or (D) any person designated by any

1 other governmental agency; and

2 (4) any other information the secretary, by rules and regulations,
3 deems necessary for the administration of this act.

4 (f) If the secretary finds the application to be sufficient, the secretary
5 shall issue a government agency registration. The government agency is
6 not required to furnish a surety bond under this act. Such government
7 agency registration shall expire at the end of the calendar year for which it
8 is issued unless it has been revoked or suspended prior thereto. If a
9 registration is not issued as applied for, the secretary shall inform the
10 applicant in writing of the reasons therefor.

11 (g) A pesticide business license or government agency registration
12 may be renewed by meeting the same requirements as for a new license or
13 registration. Neither the pesticide business license nor the government
14 agency registration shall be transferable, except that, in the event of the
15 disability, incapacity or death of the owner, manager or legal agent of a
16 pesticide business licensee, a permit may be issued by the secretary to
17 permit the operation of such business until the expiration period of the
18 license in effect at the time of such disability, incapacity or death if the
19 applicant therefor can show that the policies and services of such business
20 will continue substantially as before, with due regard to protection of the
21 public and the environment.

22 (h) No pesticide business license may be issued to any person until
23 such person is or has in such person's employ one or more individuals who
24 are certified commercial applicators in each of the categories for which the
25 license application is made.

26 Sec. 3. K.S.A. 2017 Supp. 2-2440b is hereby amended to read as
27 follows: 2-2440b. (a) It shall be unlawful for any pesticide business
28 licensee to apply pesticides for the control of wood destroying pests,
29 structural pests, ornamental pests, turf pests or interior landscape pests
30 unless the applicator of the pesticide is a certified commercial applicator or
31 is a registered pest control technician, except that an uncertified
32 commercial applicator may apply pesticides when either a certified
33 applicator or registered pest control technician is physically present.

34 (b) Any such employee applying for a pest control technician
35 registration shall file an application on a form prescribed by the secretary.
36 Application for such registration shall be accompanied by an application
37 fee established by rules and regulations adopted by the secretary, except
38 that such fee shall not exceed \$40, except that on and after July 1, 2023,
39 such fee shall not exceed \$25, and shall be reduced, but not below zero, by
40 an amount equal to the additional fee paid under K.S.A. 2-2440(b), and
41 amendments thereto, for such uncertified individual. *Failure to renew such*
42 *registration prior to January 1 of each year shall require payment of a late*
43 *fee of \$25 or a late fee equal to 40% of the current application fee,*

1 *whichever is greater.*

2 (c) If the secretary finds the applicant qualified to be a registered pest
3 control technician after meeting the training requirements determined by
4 the secretary in rules and regulations, the secretary shall issue a pest
5 control technician registration ~~which~~ *that* will expire at the end of the
6 calendar year.

7 (d) This section shall be part of and supplemental to the Kansas
8 pesticide law.

9 Sec. 4. K.S.A. 2017 Supp. 2-2905 is hereby amended to read as
10 follows: 2-2905. (a) Every manufacturer of liming materials to be
11 distributed in this state shall on July 1 of each year, or prior to manufacture
12 or distribution of such liming materials, register each manufacturing
13 facility on a form furnished by the secretary of agriculture, the application
14 to be accompanied by a fee of \$30, ~~except that on and after July 1, 2015,~~
15 ~~such application shall be accompanied by a fee of \$25.~~ All such licenses
16 shall expire on June 30 of the following year, *except as authorized in*
17 *subsection (b).*

18 (b) *Any manufacturer of liming materials may delay such registration*
19 *without halting operations until July 31 of each year without penalty or*
20 *violation of this act, if such registration is submitted concurrently with the*
21 *annual statement required pursuant to K.S.A. 2-2906, and amendments*
22 *thereto.*

23 (c) *Any manufacturer of liming materials that fails to submit such*
24 *registration as required by subsection (a) or (b) shall be in violation of*
25 *this act.*

26 Sec. 5. K.S.A. 2017 Supp. 36-505 is hereby amended to read as
27 follows: 36-505. Except as otherwise provided in this section, any license
28 issued under the provisions of this act shall expire on March 31 following
29 the date of issuance, and may be renewed by making application to the
30 secretary on or before the expiration date. Application for renewal of a
31 license shall be made on a form prescribed by the secretary and shall be
32 accompanied by the license fee required for the issuance of an original
33 license. If, for any reason, a licensee fails to renew a license prior to the
34 expiration date, the licensee may obtain a renewal of such license within
35 30 days following the expiration date by complying with the foregoing
36 provisions of this section and paying a \$25 late fee *or a late fee equal to*
37 *40% of the current license fee, whichever is greater.* If the licensee does
38 not renew within the 30-day period, then the license is treated as expired
39 and the licensee must apply for a new license.

40 Sec. 6. K.S.A. 2017 Supp. 47-1001e is hereby amended to read as
41 follows: 47-1001e. (a) Each livestock market operator shall pay annually,
42 on or before ~~June~~ *September* 30, a renewal market license fee in an amount
43 set by the Kansas animal health board and adopted by rules and

1 regulations of the commissioner of not more than \$250 to the
2 commissioner for each public livestock market operated by such operator,
3 which payment shall constitute a renewal until ~~June~~ *September* 30 of the
4 following year. The renewal market license fee established by this section
5 on the day preceding the effective date of this act shall continue in effect
6 until a different renewal market license fee is set as provided under this
7 section.

8 (b) Any person who owns or operates an electronic auction ~~which~~
9 *that* is simulcast into the state of Kansas and at which livestock located in
10 the state of Kansas are offered for sale, shall apply to the animal health
11 commissioner for an electronic auction license. A license shall be granted
12 to such person upon a showing that such person meets the bond
13 requirements, as established in K.S.A. 47-1002, and amendments thereto,
14 and has paid an annual fee in an amount set by the Kansas animal health
15 board and adopted by rules and regulations of the commissioner of not
16 more than \$250. Any such license shall expire on ~~June~~ *September* 30 of
17 each year.

18 Sec. 7. K.S.A. 47-1208 is hereby amended to read as follows: 47-
19 1208. All licenses and permits issued under this act shall expire on ~~June~~
20 *September* 30 following date of issuance. All applications for renewal of
21 licenses and permits shall be in compliance with the requirements of this
22 act for the issuance of original licenses and permits.

23 Sec. 8. K.S.A. 2017 Supp. 47-1503 is hereby amended to read as
24 follows: 47-1503. (a) It shall be unlawful for any person to operate a
25 feedlot within the state of Kansas without having first obtained a license
26 from the animal health commissioner authorizing and permitting such
27 operation.

28 (b) An operator of any feedlot in the state of Kansas, or a person
29 desiring to operate a feedlot in the state of Kansas shall obtain from the
30 animal health commissioner, a license to operate a feedlot, unless
31 exempted therefrom. The owner or operator of any livestock feedlot, with
32 a capacity of less than 1,000 head of livestock, may apply for and obtain a
33 license for feedlot operations, if such owner or operator chooses and elects
34 to come under the terms and provisions of this act, but the licensing for
35 operations at a capacity of less than 1,000 head shall not be required.

36 (c) Application for a livestock feedlot license shall be filed with the
37 animal health commissioner, on a form prescribed and furnished by the
38 commissioner. Upon the filing of such an application and payment of the
39 required fees, the commissioner shall issue a livestock feedlot license to
40 such applicant, provided the application discloses information assuring the
41 commissioner that the operation of such feedlot will be conducted in
42 accordance with the standards set forth elsewhere in this act, and with
43 rules and regulations adopted by the commissioner.

1 (d) Feedlot licenses shall be issued for the term of one year, to expire
 2 on ~~June~~ *September* 30 following the date of issuance. Feedlot licenses may
 3 be continued in force by annual renewal or extension of such license with
 4 the payment of an annual license fee, and with continued compliance by
 5 the operator with the provisions of this act, and rules and regulations
 6 adopted hereunder.

7 (e) Each cattle feedlot operator, who shall be granted a license, shall
 8 pay a fee in an amount set by the Kansas animal health board and adopted
 9 by rules and regulations of the commissioner for such license and for
 10 annual renewal thereof, in accordance with and subject to the following
 11 schedule of maximum fees:

<i>Feedlot capacity</i>	<i>Maximum fee</i>
12 Under 1,000 head.....	\$75
13 1,000 to 2,999 head.....	\$350
14 3,000 to 5,999 head.....	\$650
15 6,000 to 9,999 head.....	\$750
16 10,000 to 17,999 head.....	\$1,100
17 18,000 to 29,999 head.....	\$1,500
18 30,000 to 49,999 head.....	\$1,650
19 50,000 to 99,999 head.....	\$1,800
20 100,000 head and over.....	\$2,000

21
 22 The fees established by this subsection on the day preceding the
 23 effective date of this act shall continue in effect until different fees are set
 24 as provided under this subsection.

25 (f) For the purposes of this subsection, "animal unit" means the
 26 number of swine weighing more than 55 pounds multiplied by 0.4; plus
 27 the number of swine weighing 55 pounds or less multiplied by 0.1; plus
 28 the number of sheep or lambs multiplied by 0.1; plus the number of goats
 29 multiplied by 0.1. Each swine, sheep and goat feedlot operator, who shall
 30 be granted a license, shall pay a fee in an amount set by the Kansas animal
 31 health board and adopted by rules and regulations of the commissioner for
 32 such license and for annual renewal thereof, in accordance with and
 33 subject to the following schedule of maximum fees:

<i>Feedlot capacity</i>	<i>Maximum fee</i>
34 300 to 999 Animal units.....	\$75
35 1,000 to 2,999 Animal units.....	\$350
36 3,000 to 5,999 Animal units.....	\$650
37 6,000 to 9,999 Animal units.....	\$750
38 10,000 to 17,999 Animal units.....	\$1,100
39 18,000 to 29,999 Animal units.....	\$1,500
40 30,000 to 49,999 Animal units.....	\$1,650
41 50,000 to 99,999 Animal units.....	\$1,800
42 100,000 Animal units and over.....	\$2,000

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1 (g) If an original feedlot license expires within six months after date
2 of issuance, only 50% of the applicable license fee shall be required. An
3 application for feedlot license shall not be approved, nor shall a license be
4 issued to any applicant unless the application is accompanied by the
5 applicable license fee under the schedule of fees in this section. Each
6 licensed feedlot operator shall pay an annual license fee in accordance
7 with the schedule of fees in this section and, upon payment of such fee and
8 a showing of compliance with other requirements, shall be entitled to a
9 renewal or extension of such operator's license for the ensuing license
10 year.

11 (h) The animal health commissioner shall remit all moneys received
12 by or for the commissioner under article 15 of chapter 47 of *the* Kansas
13 Statutes Annotated, and amendments thereto, to the state treasurer in
14 accordance with the provisions of K.S.A. 75-4215, and amendments
15 thereto. Upon receipt of each such remittance, the state treasurer shall
16 deposit the entire amount in the state treasury to the credit of the animal
17 disease control fund.

18 Sec. 9. K.S.A. 2017 Supp. 47-1805 is hereby amended to read as
19 follows: 47-1805. (a) Any person operating as a livestock dealer in Kansas
20 shall register with the Kansas department of agriculture division of animal
21 health. Registration shall be made on an application form approved by the
22 animal health commissioner. The application shall be accompanied by the
23 livestock dealer registration fee or renewal fee fixed by the commissioner
24 under subsection (b). If an application for registration or renewal of
25 registration is denied by the commissioner or withdrawn by the applicant,
26 the fee shall not be refunded. Unless renewed under this section, each
27 registration shall expire on ~~the June~~ *September* 30 following the date of
28 issuance.

29 (b) The animal health commissioner shall determine annually the
30 amount of funds ~~which~~ *that* will be required for the administration and
31 enforcement of this section and K.S.A. 47-1806, and amendments thereto,
32 and shall fix and adjust from time to time a livestock dealer registration fee
33 and a renewal fee in such reasonable amounts as may be necessary for
34 such purposes, except that in no case shall either the livestock dealer
35 registration fee or the renewal fee exceed \$75.

36 (c) The animal health commissioner shall remit all moneys received
37 by or for the commissioner under this section to the state treasurer in
38 accordance with the provisions of K.S.A. 75-4215, and amendments
39 thereto. Upon receipt of each such remittance, the state treasurer shall
40 deposit the entire amount in the state treasury to the credit of the animal
41 disease control fund.

42 Sec. 10. K.S.A. 2017 Supp. 47-2101 is hereby amended to read as
43 follows: 47-2101. (a) It shall be unlawful for any person to possess

1 domesticated deer unless such person has obtained from the animal health
2 commissioner a domesticated deer permit. Application for such permit
3 shall be made in writing on a form provided by the commissioner. The
4 permit period shall be for the permit year ending on ~~June~~ *September* 30
5 following the issuance date.

6 (b) Each application for issuance or renewal of a permit shall be
7 accompanied by a fee of not more than \$400 as established by the
8 commissioner in rules and regulations.

9 (c) The animal health commissioner shall adopt any rules and
10 regulations necessary to enforce the provisions of article 21 of chapter 47
11 of the Kansas Statutes Annotated, and amendments thereto, ensure
12 compliance with federal requirements and protect domestic animals and
13 wildlife from disease risks related to domestic deer production.

14 (d) Any person who fails to obtain a permit as prescribed in
15 subsection (a) shall be deemed guilty of a class C nonperson misdemeanor
16 and upon conviction shall be punished by a fine not exceeding \$1,000.
17 Continued operation, after a conviction, shall constitute a separate offense
18 for each day of operation.

19 (e) The commissioner may refuse to issue or renew or may suspend
20 or revoke any permit for any one of the following reasons:

21 (1) Material misstatement in the application for the original permit or
22 in the application for any renewal of a permit;

23 (2) the conviction of any crime, an essential element of which is
24 misstatement, fraud or dishonesty, or relating to the theft of or cruelty to
25 animals;

26 (3) substantial misrepresentation;

27 (4) the person who is issued a permit is found to be poaching or
28 illegally obtaining deer; or

29 (5) the permit holder's willful disregard of any rule or regulation
30 adopted under this section.

31 (f) Any refusal to issue or renew a permit and any suspension or
32 revocation of a permit under this section shall be in accordance with the
33 provisions of the Kansas administrative procedure act and shall be subject
34 to review in accordance with the Kansas judicial review act.

35 (g) Each domesticated deer, regardless of age, that enters a premises
36 alive or leaves a premises alive or dead for any purpose, other than for
37 direct movement to a licensed or registered slaughter facility in Kansas,
38 shall have official identification, as prescribed by rules and regulations of
39 the commissioner. Any person who receives a permit issued pursuant to
40 subsection (a) shall keep records of such deer as required by rules and
41 regulations adopted pursuant to this section.

42 (h) (1) The animal health commissioner or the commissioner's
43 representatives may inspect the premises and records of any person issued

1 a domesticated deer permit, but shall not inspect such premises and
2 records more than once each permit year, unless the commissioner has:

3 (A) Discovered a violation of article 21 of chapter 47 of the Kansas
4 Statutes Annotated, and amendments thereto; or

5 (B) received a complaint that such premises is not being operated,
6 managed or maintained in accordance with rules and regulations adopted
7 pursuant to this section.

8 (2) The commissioner or the commissioner's representatives may
9 inspect unlicensed premises when the commissioner has reasonable
10 grounds to believe that a person is violating the provisions of this section.

11 (i) The animal health commissioner, on an annual basis, shall transmit
12 to the secretary of wildlife, parks and tourism a current list of persons
13 issued a permit pursuant to this section. The department of agriculture may
14 request assistance from the department of wildlife, parks and tourism to
15 assist in implementing and enforcing article 21 of chapter 47 of the Kansas
16 Statutes Annotated, and amendments thereto.

17 (j) All moneys received under this section shall be remitted to the
18 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
19 amendments thereto. Upon receipt of each such remittance, the state
20 treasurer shall deposit the entire amount in the state treasury to the credit
21 of the animal disease control fund.

22 (k) As used in this section:

23 (1) "Deer" means any member of the family cervidae.

24 (2) "Domesticated deer" means any member of the family cervidae
25 ~~which~~ that was legally obtained and is being sold or raised in a confined
26 area for: (A) Breeding stock; (B) any carcass, skin or part of such animal;
27 (C) exhibition; or (D) companionship.

28 Sec. 11. K.S.A. 2017 Supp. 65-691 is hereby amended to read as
29 follows: 65-691. (a) Except as otherwise provided in this section, any
30 license issued under the provisions of this act shall expire on March 31
31 following the date of issuance. Licensees may renew licenses by applying
32 to the secretary on or before the expiration date. Application for renewal of
33 a license shall be made on a form prescribed by the secretary and shall be
34 accompanied by the license fee required for the issuance of an original
35 license. If the secretary refuses to renew any license, the secretary shall
36 give written notice thereof to the licensee. In giving written notice, the
37 secretary shall specify changes necessary for complete compliance with
38 rules and regulations, and the secretary shall state that if compliance is
39 achieved within the time designated then the license shall be renewed. If
40 the licensee fails to achieve complete compliance within the prescribed
41 time, the secretary, after notice and an opportunity for a hearing in
42 accordance with the Kansas administrative procedure act, shall deny the
43 application for a license. If for any reason, a licensee fails to renew a

1 license prior to the expiration date, the licensee may obtain a renewal of
2 such license within 30 days following the expiration date. In order to
3 renew a license during this thirty-day period, the licensee must comply
4 with the foregoing provisions of this section and pay a ~~\$25~~ late fee *equal*
5 *to 40% of the current license fee*. If the licensee does not renew within the
6 thirty-day period, then the license is treated as expired, and the licensee
7 must apply for a new license.

8 (b) (1) The secretary shall inspect or cause to be inspected every
9 licensed food establishment or food processing plant in this state. If upon
10 inspection, the secretary determines that a food establishment or food
11 processing plant does not comply with rules and regulations, the secretary
12 shall give written or electronic notice to the owner, proprietor, or agent in
13 charge of such food establishment or food processing plant. In giving
14 notice, the secretary shall specify changes necessary for complete
15 compliance, and the secretary shall designate a time period for achieving
16 compliance. The prescribed time period shall not be less than 10 days,
17 unless the secretary believes time is essential to protect public health and
18 safety. If time is essential to protect public health and safety, the secretary
19 may designate a shorter period for compliance. Also, in giving notice, the
20 secretary shall state that if compliance is not achieved within the time
21 prescribed, the license for the food establishment or food processing plant
22 shall be subject to suspension or revocation.

23 (2) When a licensee of any food establishment or food processing
24 plant receives notice of noncompliance, the licensee may apply to the
25 secretary to extend the time period for achieving compliance. Upon review
26 of any such application, the secretary may deny the application or the
27 secretary may modify the time period for compliance.

28 (3) After the secretary has issued the notice of noncompliance, the
29 secretary may inspect to determine if the food establishment or food
30 processing plant has achieved compliance within the prescribed time. If
31 the food establishment or food processing plant is noncompliant, the
32 secretary, after providing notice and an opportunity for a hearing in
33 accordance with the provisions of the Kansas administrative procedure act,
34 may suspend or revoke the issued license.

35 (c) If after providing notice and an opportunity for a hearing in
36 accordance with the provisions of the Kansas administrative procedure act,
37 the secretary determines that any person has engaged in or is engaging in
38 any act or practice constituting a violation of any provision of this act, or
39 any rules and regulations or order issued thereunder, the secretary may
40 require that such person cease and desist from the unlawful act or practice.
41 The secretary may take such affirmative action when in the secretary's
42 judgment affirmative action carries out the purposes of the violated or
43 potentially violated provision of this act or rules and regulations or order

1 issued thereunder.

2 (d) Any party aggrieved by a final order of the secretary made under
3 this section may appeal such order to the district court in the manner
4 provided by the Kansas judicial review act.

5 Sec. 12. K.S.A. 47-1208 and K.S.A. 2017 Supp. 2-2120, 2-2440, 2-
6 2440b, 2-2905, 36-505, 47-1001e, 47-1503, 47-1805, 47-2101 and 65-691
7 are hereby repealed.

8 Sec. 13. This act shall take effect and be in force from and after its
9 publication in the Kansas register.