

**Testimony in Support of Senate Bill 308  
to the House Committee on Agriculture  
by Kenneth Titus, Chief Counsel  
Kansas Department of Agriculture  
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Good afternoon Chairman Highland and members of the committee. I am Kenneth Titus and I serve as the Chief Counsel for the Kansas Department of Agriculture (KDA). Thank you for the opportunity to provide testimony in support of Senate Bill 308.

SB 308, as amended by the Senate, would amend the laws regulating milk, cream and dairy products (the “Dairy Law”) so that the retail sale of raw milk and milk products on the farm may be done if the product contains the prescribed warning label stating “This product contains raw milk that is not pasteurized” or an equivalent warning. Further, any advertisement of such milk or milk products must state that the products are either “raw” or “unpasteurized.” The Senate also made several other technical changes to the bill.

This bill was introduced because, pursuant to K.S.A 65-771(cc), Kansas law previously prohibited the off-farm advertisement of raw milk and milk products. However, as a result of *Mark Bunner, et al. v. Mike Beam – Secretary of the Kansas Dept. of Ag.*, filed last year in Shawnee County District Court, the portion of the law limiting the advertisement of raw milk was struck down as unconstitutional. Therefore, KDA supports this bill, as amended, because changes to the law regarding raw milk sales are necessary to remove the unconstitutional portions of the Dairy Law.

In SB 308, as introduced and in amendments offered thereafter, KDA has supported more explicit warnings on the label and in the advertisement of raw milk than what was ultimately adopted by the Senate. KDA, along with other agencies that provide regulatory services intended to protect the public health, has serious concerns about the consumption of raw milk. The Centers for Disease Control and Prevention recently published a study that noted the growing popularity of unpasteurized milk in the United States and the related public health concerns. The authors estimated outbreak-related illnesses and hospitalizations caused by the consumption of cow’s milk and cheese contaminated with Shiga toxin-producing *Escherichia coli*, *Salmonella*, *Listeria monocytogenes*, and *Campylobacter* outbreaks associated with dairy consumption cause, on average, 760 illnesses/year and 22 hospitalizations/year, mostly from *Salmonella* and *Campylobacter*. Unpasteurized milk, consumed by only 3.2% of the population, and unpasteurized cheese, consumed by only 1.6% of the population, caused 96% of illnesses resulting from contaminated dairy products. Unpasteurized dairy products thus cause 840 times

more illnesses and 45 times more hospitalizations than pasteurized products. As consumption of unpasteurized dairy products grows, illnesses will increase steadily; a doubling in the consumption of unpasteurized milk or cheese could increase outbreak-related illnesses by 96%.<sup>1</sup>

Since consumers are often generations removed from the family farm and are not familiar with on-farm production techniques or the sanitary standards applied by the dairy industry, KDA supported the following language that was ultimately not adopted by the Senate, which included additional restrictions on advertisements that may now reach people unfamiliar with raw milk and the associated risks:

*New Section 1. (a) The on-farm retail sale of milk or milk products shall be lawful, so long as each container of unpasteurized raw milk sold or offered for sale bears a label that is clearly visible and states the following:*

- (1) "This product contains raw milk that is not pasteurized and, as a result, may contain organisms that cause food-borne illness."; and*
- (2) includes the address to the Centers for Disease Control and Prevention's raw milk website or a similar government operated website.*

*(b) Any person who engages in the on-farm retail sale of milk or milk products may advertise such milk or milk-products if such advertisement states the following:*

- (1) "This product contains raw milk that is not pasteurized; and*
- (2) includes the address or link to the Centers for Disease Control and Prevention's raw milk website or a similar government operated website.*

*If such advertisement is in print or other written or visual form, these statements shall be clearly visible.*

KDA believed that this language provided a non-intrusive way to provide freedom to raw milk producers to sell and advertise their product while also providing appropriate information about the risks of consuming raw milk to the public now that there are no restrictions on the advertisement of raw milk and milk products. This approach would still allow the consumer to ultimately make the choice that is best for them.

KDA still believes it is important that the public be made aware of the risks involved with the consumption of raw milk and milk products and further encourages consumers to seek out pasteurized milk products. However, it is also important that the unconstitutional language be cleaned up and SB 308, as amended, accomplishes that goal.

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<sup>1</sup> Costard, S., Espejo, L., Groenendaal, H., & Zgmutt, F. J. (2017). Outbreak-Related Disease Burden Associated with Consumption of Unpasteurized Cow's Milk and Cheese, United States, 2009–2014. *Emerging Infectious Diseases*, 23(6), 957-964. <https://dx.doi.org/10.3201/eid2306.151603>.