

HOUSE BILL No. 2222

By Representative Alcalá

2-11

1 AN ACT concerning the Kansas department of agriculture; relating to food
2 establishments; prohibiting single-use plastic straws; amending K.S.A.
3 65-655 and 65-656 and repealing the existing sections.
4

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

6 New Section 1. On and after July 1, 2021, no food establishment shall
7 provide a single-use plastic straw or make a single-use plastic straw
8 available to a consumer for purchase or without charge. This section shall
9 not apply to retail sales of single-use plastic straws by a grocery store or
10 convenience store.

11 Sec. 2. K.S.A. 65-655 is hereby amended to read as follows: 65-655.
12 K.S.A. 65-619 through ~~65-690~~, and ~~K.S.A. 65-691~~ and 65-692, and
13 amendments thereto, *and section 1, and amendments thereto*, may be cited
14 as the Kansas food, drug and cosmetic act.

15 Sec. 3. K.S.A. 65-656 is hereby amended to read as follows: 65-656.
16 For the ~~purpose~~ *purposes* of this act:

17 (a) "Secretary" means the secretary of agriculture or the secretary's
18 authorized representatives.

19 (b) "Person" means an individual, partnership, governmental entity,
20 corporation, or association of persons.

21 (c) "Food" means: (1) Articles used for food or drink for humans or
22 other animals; (2) chewing gum; and (3) articles used for components of
23 any such article.

24 (d) "Drug" means: (1) Articles recognized in the official United States
25 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
26 or official national formulary, or any supplement to any of them; (2)
27 articles intended for use in diagnosis, cure, mitigation, treatment or
28 prevention of disease in humans or other animals; (3) articles, other than
29 food, intended to affect the structure or any function of the body of
30 humans or other animals; and (4) articles intended for use as a component
31 of any article specified in paragraph (1), (2), or (3); but does not include
32 devices or their components, parts or accessories. The term "drug" shall
33 not include amygdalin, *also known as* (laetrile).

34 (e) "Device," except as used in ~~subsection (j) of K.S.A. 65-657(j),~~
35 ~~subsection (f) of K.S.A. 65-665(f), subsections (c) and (o) of K.S.A. 65-~~
36 ~~669(c) and (o), and subsection (e) of K.S.A. 65-671(c), and amendments~~

1 thereto, means instruments, apparatus and contrivances, including their
2 components, parts and accessories, intended for use in the diagnosis, cure,
3 mitigation, treatment; or prevention of disease in humans or other animals
4 or to affect the structure or any function of the body of humans or other
5 animals.

6 (f) "Cosmetic" means: (1) Articles intended to be rubbed, poured,
7 sprinkled, or sprayed on, introduced into, or otherwise applied to the
8 human body or any part thereof for cleaning, beautifying, promoting
9 attractiveness or altering appearance; and (2) articles intended for use as a
10 component of any such articles, except that such term shall not include
11 soap.

12 (g) "Official compendium" means the official United States
13 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
14 official national formulary or any supplement to any of them.

15 (h) "Label" means a display of written, printed or graphic matter upon
16 the immediate container of any article; and a requirement made by or
17 under authority of this act that any word, statement, or other information
18 appearing on the label shall not be considered to be complied with unless
19 such word, statement; or other information also appears on the outside
20 container or wrapper, if any there be, of the retail package of such article,
21 or is easily legible through the outside container or wrapper.

22 (i) "Immediate container" does not include package liners.

23 (j) "Labeling" means all labels and other written, printed or graphic
24 matter upon an article or any of its containers or wrappers or
25 accompanying such article.

26 (k) "Advertisement" means all representations disseminated in any
27 manner or by any means other than by labeling, for the purpose of
28 inducing, or which are likely to induce, directly or indirectly, the purchase
29 of food, drugs, devices or cosmetics.

30 (l) "New drug" means: (1) Any drug the composition of which is such
31 that such drug is not generally recognized, among experts qualified by
32 scientific training and experience to evaluate the safety and effectiveness
33 of drugs, as safe and effective for use under the conditions prescribed,
34 recommended; or suggested in the labeling thereof; or (2) any drug the
35 composition of which is such that such drug, as a result of investigations to
36 determine its safety and effectiveness for use under such conditions, has
37 become so recognized, but which has not, otherwise than in such
38 investigations, been used to a material extent or for a material time under
39 such conditions. The term "new drug" shall not include amygdalin, *also*
40 *known as* (laetrile).

41 (m) "Contaminated with filth" applies to any food, drug, device or
42 cosmetic not securely protected from dust, dirt, and as far as may be
43 necessary by all reasonable means, from all foreign or injurious

1 contaminations.

2 (n) "Pesticide chemical" means any substance ~~which~~ *that*, alone, in
3 chemical combination, or in formulation with one or more other
4 substances is a "pesticide" within the meaning of the agricultural
5 chemicals act, K.S.A. 2-2202, and amendments thereto, and ~~which~~ *that* is
6 used in the production, storage or transportation of raw agricultural
7 commodities.

8 (o) "Raw agricultural commodity" means any food in its raw or
9 natural state, including all fruits that are washed, colored; or otherwise
10 treated in their unpeeled natural form prior to marketing.

11 (p) "Food additive" means any substance, the intended use of which
12 results or may be reasonably expected to result, directly or indirectly, in its
13 becoming a component or otherwise affecting the characteristics of any
14 food, including any substance intended for use in producing,
15 manufacturing, packing, processing, preparing, treating, packaging,
16 transporting; or holding food; and including any source of radiation
17 intended for any such use, if such substance is not generally recognized,
18 among experts qualified by scientific training and experience to evaluate
19 its safety, as having been adequately shown through scientific procedures,
20 or, in the case of a substance used in a food prior to January 1, 1958,
21 through either scientific procedures or experience based on common use in
22 food, to be safe under the conditions of its intended use. "Food additive"
23 does not include: (1) A pesticide chemical in or on a raw agricultural
24 commodity; (2) a pesticide chemical to the extent that it is intended for use
25 or is used in the production, storage, or transportation of any raw
26 agricultural commodity; (3) a color additive; or (4) any substance used in
27 accordance with a sanction or approval granted prior to the enactment of
28 the food additive amendment of 1958, pursuant to the federal act.

29 (q) (1) "Color additive" means a material ~~which~~ *that*: (A) Is a dye,
30 pigment; or other substance made by a process of synthesis or similar
31 artifice, or extracted, isolated; or otherwise derived, with or without
32 intermediate or final change of identity from a vegetable, animal, mineral;
33 or other source; or (B) when added or applied to a food, drug or cosmetic,
34 or to the human body or any part thereof, is capable, alone or through
35 reaction with another substance, of imparting color thereto; except that
36 such term does not include any material ~~which~~ *that* has been or hereafter is
37 exempted under the federal act.

38 (2) The term "color" includes black, white and intermediate grays.

39 (3) Nothing in this subsection shall be construed to apply to any
40 pesticide chemical, soil or plant nutrient, or other agricultural chemical
41 solely because of its effect in aiding, retarding or otherwise affecting,
42 directly or indirectly, the growth or other natural physiological process of
43 produce of the soil and thereby affecting its color, whether before or after

1 harvest.

2 (r) "Imitation" means any article made in the semblance of another,
3 consisting of similar or dissimilar ingredients and being capable of being
4 substituted for the imitated article without the knowledge of the consumer.

5 (s) "Federal act" means the federal food, drug and cosmetic act, title
6 21 U.S.C. § 301 et seq.; 52 Stat. 1040 et seq.

7 (t) "Department" means the Kansas department of agriculture.

8 (u) "Distribution" means the provision of food, drug, cosmetic or
9 device to another person and includes selling, offering for sale, giving,
10 supplying, transporting, applying and dispensing.

11 (v) "Food establishment" means any place in which food is prepared,
12 served or offered for sale or service on the premises or elsewhere. "Food
13 establishment" does not include roadside markets that offer only whole
14 fresh fruits, nuts and vegetables for sale. "Food establishment" includes,
15 but is not limited to:

16 (1) Eating or drinking establishments, fixed or mobile restaurants,
17 coffee shops, cafeterias, short-order cafes, luncheonettes, tea rooms, grills,
18 sandwich shops, soda fountains, taverns, private clubs, roadside stands,
19 industrial-feeding establishments, catering kitchens, commissaries and any
20 other private, public or nonprofit organizations routinely serving food; and

21 (2) grocery stores, convenience stores, bakeries and locations where
22 food is provided for the public with or without charge.

23 (w) "Food processing plant" means a commercial operation that
24 processes or stores food for human consumption and provides food for
25 distribution to other business entities at other locations, including other
26 food processing plants and food establishments. "Food processing plant"
27 does not include any operation or individual beekeeper that produces and
28 distributes honey to other business entities if the producer does not process
29 the honey beyond extraction from the comb.

30 (x) "Food vending machine" means any self-service device, ~~which~~
31 *that*, upon payment, dispenses unit servings of food, either in bulk or in
32 packages. Such device shall not necessitate replenishing between each
33 vending operation. "Food vending machine" does not include any vending
34 machine dispensing only canned or bottled soft drinks or prepackaged
35 food that does not require temperature control for safety.

36 (y) "Food vending machine company" means any person in the
37 business of operating and servicing food vending machines.

38 (z) "Location" means a physical address, or absent an address, the
39 geographical area within 300 feet of a food establishment or food
40 processing plant. In the case of a mobile food establishment housed in a
41 trailer, such trailer shall be considered a food establishment with its own
42 location. In the case of a mobile food establishment that is not housed in a
43 trailer, the equipment used for storage, preparation or offering of food shall

1 be considered a food establishment with its own location.

2 (aa) "Municipality" means any city or county of this state.

3 (bb) "Processing" means the handling of a food, drug, cosmetic or
4 device, including the production, manufacturing, packaging, packing and
5 labeling of such item.

6 (cc) "Sample" means a small quantity of food and does not include a
7 meal or entree.

8 (dd) *"Single-use plastic straw" means a single-use, disposable tube*
9 *made predominantly of plastic derived from either petroleum or a*
10 *biologically based polymer, such as corn or other plant sources, used to*
11 *transfer a beverage from a container to the mouth of the person drinking*
12 *the beverage. "Single-use plastic straw" does not include a single-use,*
13 *disposable tube made from non-plastic materials, including, but not*
14 *limited to, paper, pasta, sugar cane, wood or bamboo.*

15 (ee) "Storage" means holding for distribution or processing.

16 Sec. 4. K.S.A. 65-655 and 65-656 are hereby repealed.

17 Sec. 5. This act shall take effect and be in force from and after its
18 publication in the statute book.