

SENATE BILL No. 300

By Committee on Agriculture and Natural Resources

1-22

1 AN ACT concerning agriculture; relating to milk and dairy products;
2 prohibiting the on-farm retail sales of milk or milk products; amending
3 K.S.A. 65-771, 65-773 and 65-789 and repealing the existing sections;
4 also repealing K.S.A. 65-784.

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

7 Section 1. K.S.A. 65-771 is hereby amended to read as follows: 65-
8 771. As used in this act:

9 (a) "Adulterated" ~~has the same meaning~~ *means the same* as provided
10 in K.S.A. 65-664, and amendments thereto.

11 (b) "Bulk milk pick up tanker" means a vehicle including the truck,
12 tank and those appurtenances necessary for such vehicle's use, used by a
13 bulk milk hauler or sampler to transport bulk raw milk for pasteurization
14 from a dairy farm to a milk plant, receiving station or transfer station.

15 (c) "Dairy manufacturing plants" means any place where dairy
16 products, grade A milk or milk products are manufactured or prepared for
17 sale or distribution, either at wholesale or retail. ~~This term shall~~ *"Dairy*
18 *manufacturing plants"* does not include a licensed food service
19 establishment ~~which~~ *that* is licensed to manufacture homemade ice cream
20 pursuant to this act.

21 (d) "Dairy products" means products ~~which~~ *that* may be made from
22 milk or cream for manufacturing purposes and ~~which~~ are not required to
23 meet grade A standards, ~~including~~. *"Dairy products" includes* butter,
24 cheese, dry whole milk, nonfat dry milk, dry buttermilk, dry whey,
25 evaporated milk, whole or skim, condensed whole milk, condensed skim
26 milk, sweetened or plain, frozen dairy dessert, ~~and~~ frozen dairy dessert
27 mixes and such other products as may be otherwise designated by rules
28 and regulations.

29 (e) "Frozen dairy dessert" means ~~and includes~~ products containing
30 milk or cream and other ingredients ~~which~~ *that* are frozen or semi-frozen
31 prior to consumption, such as ice cream, ice milk or sherbet, including
32 frozen dairy desserts for special dietary purposes.

33 (f) "Frozen dairy dessert mix" means the pasteurized unfrozen
34 combination of all ingredients with or without fruits, fruit juices, candy,
35 nut meats, flavor or harmless color ~~which~~ *that* makes a frozen dairy
36 dessert.

1 (g) "Goat milk" means the normal lacteal secretion, practically free of
2 colostrum, obtained by the complete milking of one or more healthy goats.
3 Goat milk sold in retail packages shall contain not less than 2.5% milkfat
4 and not less than 7.5% milk solids not fat. Goat milk shall be produced
5 according to the sanitary standards of this act.

6 (h) "Grade A pasteurized milk" means pasteurized milk~~which that~~
7 has at least a 90% survey rating, as determined by a survey of the source
8 conducted by the secretary pursuant to the survey rating methods for
9 conducting surveys of the status of milk sanitation. The milk shall meet the
10 requirements for grade A under the rules and regulations adopted pursuant
11 to this act. The secretary may authorize the use of the grade A designation
12 for a temporary time period on grade A pasteurized milk within the
13 statewide system of milk inspection and regulatory services, although such
14 grade A pasteurized milk does not have at least a 90% survey rating.

15 (i) "Grade A pasteurized milk products" means all pasteurized milk
16 products~~which that~~ have at least a 90% survey rating, as determined by a
17 survey of the source conducted by the secretary pursuant to the survey
18 rating methods for conducting surveys of the status of milk sanitation. The
19 pasteurized milk products shall meet the requirements for grade A under
20 rules and regulations adopted pursuant to this act. The secretary may
21 authorize the use of the grade A designation for a temporary time period on
22 grade A pasteurized milk products within the statewide system of milk
23 inspection and regulatory services, although such grade A pasteurized milk
24 products do not have at least a 90% survey rating.

25 (j) "Grade A raw milk for pasteurization" means milk having at least
26 90% survey rating, as determined by a survey of the source conducted by
27 the secretary pursuant to the survey rating methods for conducting surveys
28 of the status of milk sanitation, the raw milk meeting the requirements for
29 grade A under the rules and regulations adopted pursuant to this act. The
30 secretary may authorize the use of the grade A designation for a temporary
31 time period on grade A raw milk for pasteurization within the statewide
32 system of milk inspection and regulatory services, although such milk does
33 not have at least a 90% survey rating.

34 (k) "Imminent health hazard" means any condition~~which that~~
35 involves milk, milk products, or dairy products, or any practice or
36 procedure in the handling, transportation, storage, processing or
37 manufacturing of a milk, milk product or dairy product~~which that~~ poses a
38 significant threat of danger to the public health~~which that~~ should be
39 corrected immediately to prevent injury or sickness and~~which that~~ should
40 not be permitted to continue while a hearing or other proceeding is being
41 conducted. An imminent health hazard may be declared at any point in a
42 chain of events~~which that~~ ultimately may result in harm or danger to the
43 public health. The occurrence of the final anticipated injury or other

1 disease related condition shall not be a prerequisite for the establishment
2 of the existence of an imminent health hazard.

3 (l) "In package form" means any commodity put up or packaged in
4 any manner in advance of sale so as to constitute a unit quantity of the
5 commodity for either wholesale or retail sale, exclusive of any auxiliary
6 container enclosing such packages ~~which~~ *that* individually conform to the
7 requirements of this act.

8 (m) "Milk" means the lacteal secretion, practically free from
9 colostrum, obtained by the complete milking of one or more healthy cows.
10 "*Milk*" includes goat milk. Milk that is in final package form for beverage
11 use shall have been pasteurized or ultrapasteurized, and shall contain not
12 less than 8.25% milk solids not fat and not less than 3.25% milkfat. Milk
13 may have been adjusted by separating part of the milkfat therefrom, or by
14 adding thereto cream, concentrated milk, dry whole milk, skim milk,
15 concentrated skim milk, or nonfat dry milk. Milk may be homogenized.
16 ~~Milk shall be interpreted to include goat milk.~~

17 (n) "Milk distributor" means any person who first sells or offers for
18 sale in Kansas any packaged grade A pasteurized milk, milk product, or
19 dairy product.

20 (o) "~~Milk hauler/sampler~~ *hauler or sampler*" means any person who
21 collects official samples and may transport raw milk from a farm or raw
22 milk products to or from a milk plant or both, receiving station or transfer
23 station and has in their possession a permit from any state to sample such
24 products.

25 (p) "Milk inspection and regulatory services" means the inspection,
26 sampling, laboratory testing and the administrative procedures relating
27 thereto, necessary to determine that the production, processing,
28 distribution and sale of grade A milk, milk products, and dairy products
29 comply with the requirements of this act and any rules and regulations
30 adopted hereunder.

31 (q) "Milk or cream for manufacturing purposes" means raw milk or
32 raw cream ~~which~~ *that* is not subject to grade A standards and ~~which~~
33 is produced for processing and manufacturing into dairy products for human
34 consumption. Milk for manufacturing purposes may contain less than
35 3.25% of butterfat and shall be delivered pure, sweet and clean.

36 (r) "Milk or cream receiving station" means any place where milk or
37 cream may be received, collected, handled, processed, stored or collected
38 and prepared for further transporting.

39 (s) "Milk or cream transfer station" means any place where milk or
40 cream are transferred directly from one milk tank truck to another.

41 (t) "Milk plant" means any place, premises or establishment where
42 milk or milk products are collected, handled, processed, stored,
43 pasteurized, ultrapasteurized, aseptically processed, condensed, dried,

1 packaged or prepared for distribution.

2 (u) "Milk processor" means any person who operates any place,
3 premises or establishment where grade A raw milk for pasteurization or
4 milk or cream for manufacturing purposes is processed, pasteurized,
5 bottled or prepared for distribution.

6 (v) "Milk producer" means any person who owns or operates a dairy
7 farm and who provides, sells or offers for sale grade A raw milk for
8 pasteurization or milk or cream for manufacturing purposes to a milk
9 plant, receiving station or transfer station.

10 (w) "Milk products" means cream, light cream, light whipping cream,
11 heavy cream, heavy whipping cream, whipped cream, whipped light
12 cream, sour cream, acidified sour cream, cultured sour cream, half-and-
13 half, sour half-and-half, acidified sour half-and-half, cultured sour half-
14 and-half, reconstituted or recombined milk and milk products,
15 concentrated milk, concentrated milk products, nonfat skim milk, reduced
16 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured
17 milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk,
18 yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat
19 or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium
20 reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced
21 milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat
22 skim milk, aseptically processed and packaged milk and milk products,
23 milk, reduced fat or lowfat milk or nonfat skim milk with added safe and
24 suitable microbial organisms and any other milk product made by the
25 addition or subtraction of milkfat or addition of safe and suitable optional
26 ingredients for protein, vitamin or mineral fortification of milk products
27 defined herein. "Milk products" also ~~include~~ *includes* those dairy foods
28 made by modifying the federally standardized products listed in this
29 section in accordance with 21 C.F.R. § 130.10, requirements for foods
30 named by use of a nutrient content claim and a standardized term. Milk
31 and milk products ~~which~~ *that* have been retort processed after packaging
32 or ~~which~~ have been concentrated, condensed or dried are included in this
33 definition only if they are used as an ingredient to produce any milk or
34 milk product defined herein or if they are labeled as Grade A as adopted
35 and described by rules and regulations promulgated under this act. Except
36 as otherwise provided, ~~the term "milk-shall-products"~~ *does* not include
37 dietary products, infant formula, ice cream or other desserts, butter or
38 cheese.

39 (x) "Milk tank truck" means the term used to describe both a bulk
40 milk pick up tanker and a milk transport tank.

41 (y) "Milk tank truck cleaning facility" means any place, premises or
42 establishment, other than a milk plant, receiving station or transfer station,
43 where a milk tank truck is cleaned and sanitized.

1 (z) "Milk transport tank" means a vehicle including the truck and
 2 tank, used by a bulk milk hauler or sampler to transport bulk shipments of
 3 milk and milk products from a milk plant, receiving station or transfer
 4 station to another milk plant, receiving station or transfer station.

5 (aa) "Milk transportation company" means the person, business or
 6 entity responsible for a milk tank truck.

7 (bb) ~~"Misbranded" has the same meaning as ascribed to it~~ *means the*
 8 *same as provided* in K.S.A. 65-665, and amendments thereto.

9 ~~(cc) "On-farm retail sales of milk or milk products" means the sale of~~
 10 ~~milk or milk products on the farm by the producer from the production of~~
 11 ~~the dairy herd to the final consumer, so long as the person making such~~
 12 ~~sales does not promote the sale of milk or milk products to the public in~~
 13 ~~any manner other than by the erection of a sign upon the premises of the~~
 14 ~~dairy farm. The advertisement upon any such sign shall state that such~~
 15 ~~milk or milk products are raw and shall be in letters of a uniform size.~~
 16 ~~Each container in which any unpasteurized milk is sold or offered for sale~~
 17 ~~shall be clearly labeled as ungraded raw milk.~~

18 ~~(dd)~~(cc) "Pasteurized" ~~has the same meaning as ascribed to it~~ *means*
 19 *the same as provided* in 21 C.F.R. §§ 131.3 and 135.3.

20 ~~(ee)~~(dd) "Person" means any individual, plant operator, partnership,
 21 corporation, company, firm, trustee, association or institution.

22 ~~(ff)~~(ee) "Plant fabricating single service articles" means any place
 23 ~~which that manufactures single service articles which~~ *that* are expected to
 24 come in contact with grade A milk or grade A milk products.

25 ~~(gg)~~(ff) "Secretary" means the secretary of the Kansas department of
 26 agriculture, or the secretary's designee.

27 ~~(hh)~~(gg) "Single service article or container" means any container
 28 having a milk or milk product-contact surface and used in the packaging,
 29 handling, storage or servicing of grade A milk and is intended for one
 30 usage only.

31 Sec. 2. K.S.A. 65-773 is hereby amended to read as follows: 65-773.
 32 It shall be the duty of the secretary to:

33 (a) Establish a statewide system of milk inspection and regulatory
 34 services to ~~insure~~ *ensure*, by means of uniform inspection and sampling
 35 procedures, that all milk and milk products sold in this state at retail to the
 36 final consumer, ~~except on-farm retail sales of milk or milk products,~~ shall
 37 attain the standard of grade A pasteurized. The secretary may contract with
 38 the governing body of any county or incorporated city, or both, for the
 39 provision of milk inspection and regulatory services, ~~and. The secretary~~
 40 ~~shall provide~~ compensation ~~shall be made by the secretary~~ for the
 41 furnishing of these services;

42 (b) inspect or cause to be inspected, as often as may be deemed
 43 practicable, all businesses licensed pursuant to this act and any other

1 places where milk, milk products or dairy products are produced,
2 manufactured, kept, handled, stored or sold within the state. The secretary
3 may enter any business licensed under this act during regular business
4 hours or any other hours during which business is in operation or any other
5 place where any milk, milk products or dairy products are manufactured,
6 produced, stored, sold or kept for sale or transportation, for the purpose of
7 performing official duties under this act;

8 (c) prohibit the production and sale of adulterated or misbranded
9 milk, milk products or dairy products;

10 (d) seize and condemn for food purposes all unclean, adulterated or
11 misbranded milk, milk products or dairy products wherever such milk,
12 milk products or dairy products may be found; and

13 (e) take or cause to be taken samples of milk, milk products or dairy
14 products and cause the same to be analyzed or tested according to such
15 methods as shall be prescribed by rules and regulations. Such test or
16 analyses shall conform to methods of the association of official analytical
17 chemists or any other such similar organization as determined by the
18 secretary. Such analyses or tests shall be preserved and recorded as
19 evidence, and the certificate of such test, when sworn to by the analyst,
20 shall be admitted in evidence in all prosecutions that may result under the
21 operation of this act.

22 Sec. 3. K.S.A. 65-789 is hereby amended to read as follows: 65-789.
23 It shall be unlawful for any person to:

24 (a) Engage in any business or activity ~~which~~ *that* requires a license or
25 permit under this act without having a license or permit;

26 (b) sell, offer or expose for sale:

27 (1) Any milk, milk products or dairy products ~~which~~ *that* do not
28 conform to the definition and standards of identity established under this
29 act; or

30 (2) any milk, milk products or dairy products ~~which~~ *that* are
31 adulterated or misbranded.

32 (c) adulterate or misbrand any milk, milk products or dairy products;

33 (d) sell, offer for sale or have in such person's possession with the
34 intent to sell at retail to the final consumer any milk or milk product ~~which~~
35 *that* has not been inspected and designated grade A pasteurized in
36 accordance with the provisions of this act and any rules and regulations
37 adopted thereunder, ~~except that on-farm retail sales of milk or milk~~
38 ~~products shall be exempt from the provisions of this act unless stated~~
39 ~~otherwise~~; or

40 (e) violate any provision of this act or any rules or regulations
41 promulgated thereunder.

42 Sec. 4. K.S.A. 65-771, 65-773, 65-784 and 65-789 are hereby
43 repealed.

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