

As Amended by House Committee

As Amended by Senate Committee

Session of 2022

SENATE BILL No. 346

By Committee on Agriculture and Natural Resources

1-14

1 AN ACT concerning agriculture; relating to milk and dairy products;
2 allowing on-farm retail sale of milk and milk products; extending
3 certain milk and dairy license fees; authorizing the secretary of
4 agriculture to declare an imminent health hazard; authorizing civil
5 penalties for certain dairy law violations; **relating to animals;**
6 **transporting animals into the state; authorizing the animal health**
7 **commissioner to assess a civil penalty for violations relating**
8 **thereto;** amending K.S.A. **47-607c**, 65-771, 65-778, 65-781, 65-786
9 and 65-788 and repealing the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 New Section 1. (a) Except as provided in article 7 of chapter 65 of the
13 Kansas Statutes Annotated, and amendments thereto, and in rules and
14 regulations adopted by the secretary hereunder, the secretary shall apply
15 the definitions and standards of identity ascribed to milk and dairy
16 products by the federal food and drug administration.

17 (b) Goat milk sold in retail packages shall contain not less than 2.5%
18 milkfat and not less than 7.5% milk solids not fat. Goat milk shall be
19 produced according to the sanitary standards of this act and may have been
20 adjusted by separating part of the milkfat therefrom or by adding cream,
21 concentrated milk, dry whole milk, skim milk, concentrated skim milk or
22 nonfat dry milk thereto. Goat milk may be homogenized.

23 (c) Milk that is not goat milk shall contain not less than 3.25%
24 milkfat and not less than 8.25% milk solids not fat. Milk may have been
25 adjusted by separating part of the milkfat therefrom or by adding cream,
26 concentrated milk, dry whole milk, skim milk, concentrated skim milk or
27 nonfat dry milk thereto. Milk may be homogenized.

28 (d) Milk or cream for manufacturing purposes may contain less than
29 3.25% butterfat and shall be delivered pure, sweet and clean.

30 (e) Grade A pasteurized milk, grade A pasteurized milk products and
31 grade A milk for pasteurization shall meet the requirements for grade A
32 under the rules and regulations adopted pursuant to this act. The secretary
33 may authorize the use of the grade A designation for a temporary time
34 period on grade A pasteurized milk within the statewide system of milk

1 inspection and regulatory services, even if such grade A pasteurized milk
2 does not have at least a 90% survey rating.

3 New Sec. 2. (a) The on-farm retail sale of milk or milk products shall
4 be lawful, so long as each container of unpasteurized raw milk sold or
5 offered for sale bears a label that is clearly visible and states the following
6 or its equivalent in a clearly visible font size: "~~This product contains~~ Raw
7 milk ~~that is not pasteurized and could contain bacteria that may cause~~
8 ~~foodborne illness.~~" ~~or~~ "**and Unpasteurized**".

9 (b) Any person who engages in the on-farm retail sale of milk or milk
10 products may advertise such milk or milk products. Any such
11 advertisement shall not be false or misleading and shall state that such
12 milk or milk products are raw ~~and~~ ~~or~~ **and** unpasteurized. If such
13 advertisement is in print or other written or visual form, this statement
14 shall be clearly visible.

15 (c) In addition to any other remedies available under the act, the
16 secretary may issue a civil penalty pursuant to K.S.A. 65-788, and
17 amendments thereto, against any person who violates this section.

18 **Sec. 3. K.S.A. 47-607c is hereby amended to read as follows: 47-**
19 **607c. (a) Any person or persons violating or failing who intentionally or**
20 **knowingly violates or intentionally or knowingly fails to comply with the**
21 **provisions of this act shall be deemed guilty of a class C nonperson**
22 **misdemeanor, and upon conviction thereof shall be punished by a fine of**
23 **not less than one hundred dollars (\$100) nor more than one thousand**
24 **dollars (\$1,000), or by imprisonment in the county jail not less than thirty**
25 **(30) days nor more than one (1) year, or by both such fine and**
26 **imprisonment.**

27 (b) *In addition to any other penalty provided by law, any person who*
28 *violates K.S.A. 47-607, and amendments thereto, the special permit*
29 *requirements of K.S.A. 47-607a, and amendments thereto, or rules and*
30 *regulations promulgated pursuant to K.S.A. 47-607d, and amendments*
31 *thereto, may incur a civil penalty in an amount not less than \$100 nor*
32 *more than \$1,000 for each shipment into the state.*

33 (c) *No civil penalty shall be imposed pursuant to this section except*
34 *upon the written order of the duly authorized agent of the animal health*
35 *commissioner to the person who committed the violation. Such order shall*
36 *state the violation, the civil penalty to be imposed and the right of the*
37 *person to appeal to the commissioner. Within 20 days of such notification,*
38 *any such person may make written request to the commissioner for a*
39 *hearing in accordance with the Kansas administrative procedure act.*

40 (d) *Any civil penalty recovered pursuant to this section shall be*
41 *remitted to the state treasurer in accordance with K.S.A. 75-4215, and*
42 *amendments thereto. Upon receipt of each such remittance, the state*
43 *treasurer shall deposit the entire amount in the state treasury to the credit*

1 *of the state general fund.*

2 (e) *The animal health commissioner may require that any records*
3 *related to animals and the suspected transportation of such animals into*
4 *the state in violation of K.S.A. 47-607, and amendments thereto, the*
5 *special permit requirements of K.S.A. 47-607a, and amendments thereto,*
6 *or rules and regulations promulgated pursuant to K.S.A. 47-607d, and*
7 *amendments thereto, in the possession of any person be submitted to the*
8 *commissioner for review within a reasonable time. Failure to cooperate*
9 *with any such request shall be considered a violation of this act.*

10 Sec. ~~3~~ 4. K.S.A. 65-771 is hereby amended to read as follows: 65-
11 771. As used in this act:

12 (a) "Adulterated" ~~has~~ *means* the same ~~meaning~~ as provided in K.S.A.
13 65-664, and amendments thereto.

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

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

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

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

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

40 (g) ~~"Goat milk" means the normal lacteal secretion, practically free of~~
41 ~~colostrum, obtained by the complete milking of one or more healthy goats.~~
42 ~~Goat milk sold in retail packages shall contain not less than 2.5% milkfat~~
43 ~~and not less than 7.5% milk solids not fat. Goat milk shall be produced~~

1 according to the sanitary standards of this act.

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

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

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

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

42 ~~(i)(j)~~ "Imminent health hazard" means any condition that
43 involves milk, milk products or dairy products, or any practice or

1 **procedure in the handling, transportation, storage, processing or**
 2 **manufacturing of milk, milk product or dairy product that poses a**
 3 **significant threat of danger to the public health that should be**
 4 **corrected immediately to prevent injury or sickness and that should**
 5 **not be permitted to continue while a hearing or other proceeding is**
 6 **being conducted.**

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

12 ~~(m)(k)(l)~~ **(l)** "Milk" means the lacteal secretion, practically free from
 13 colostrum, obtained by the complete milking of one or more healthy ~~eows.~~
 14 ~~Milk that is in hooved mammals. Except for on-farm retail sale of milk or~~
 15 ~~milk products, milk sold in final package form for beverage use shall have~~
 16 ~~been pasteurized or ultrapasteurized, and shall contain not less than 8.25%~~
 17 ~~milk solids not fat and not less than 3.25% milkfat. Milk may have been~~
 18 ~~adjusted by separating part of the milkfat therefrom, or by adding thereto~~
 19 ~~cream, concentrated milk, dry whole milk, skim milk, concentrated skim~~
 20 ~~milk, or nonfat dry milk. Milk may be homogenized. Milk shall be~~
 21 ~~interpreted to include goat milk.~~

22 ~~(n)(l)(m)~~ **(m)** "Milk distributor" means any person who first sells or offers
 23 for sale in Kansas any packaged grade A pasteurized milk, milk product, or
 24 dairy product.

25 ~~(o)(m)(n)~~ **(n)** "Milk ~~hauler/sampler~~ *hauler or sampler*" means any person
 26 who collects official samples and may transport raw milk from a farm or
 27 raw milk products to or from a milk plant or both, receiving station or
 28 transfer station and has in their possession a permit from any state to
 29 sample such products.

30 ~~(p)(n)(o)~~ **(o)** "Milk inspection and regulatory services" means the
 31 inspection, sampling, laboratory testing and the administrative procedures
 32 relating thereto, necessary to determine that the production, processing,
 33 distribution and sale of grade A milk, milk products, and dairy products
 34 comply with the requirements of this act and any rules and regulations
 35 adopted hereunder.

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

41 ~~(r)(p)(q)~~ **(q)** "Milk or cream receiving station" means any place where
 42 milk or cream may be received, collected, handled, processed, stored or
 43 collected and prepared for further transporting.

- 1 ~~(s)~~~~(q)~~**(r)** "Milk or cream transfer station" means any place where milk
2 or cream are transferred directly from one milk tank truck to another.
- 3 ~~(t)~~~~(z)~~**(s)** "Milk plant" means any place, premises or establishment
4 where milk or milk products are collected, handled, processed, stored,
5 pasteurized, ultrapasteurized, aseptically processed, condensed, dried,
6 packaged or prepared for distribution.
- 7 ~~(u)~~~~(z)~~**(t)** "Milk processor" means any person who operates any place,
8 premises or establishment where grade A raw milk for pasteurization or
9 milk or cream for manufacturing purposes is processed, pasteurized,
10 bottled or prepared for distribution.
- 11 ~~(v)~~~~(z)~~**(u)** "Milk producer" means any person who owns or operates a
12 dairy farm and who provides, sells or offers for sale grade A raw milk for
13 pasteurization or milk or cream for manufacturing purposes to a milk
14 plant, receiving station or transfer station.
- 15 ~~(w)~~~~(z)~~**(v)** "Milk products" means cream, light cream, light whipping
16 cream, heavy cream, heavy whipping cream, whipped cream, whipped
17 light cream, sour cream, acidified sour cream, cultured sour cream, half-
18 and-half, sour half-and-half, acidified sour half-and-half, cultured sour
19 half-and-half, reconstituted or recombined milk and milk products,
20 concentrated milk, concentrated milk products, nonfat skim milk, reduced
21 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured
22 milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk,
23 yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat
24 or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium
25 reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced
26 milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat
27 skim milk, aseptically processed and packaged milk and milk products,
28 milk, reduced fat or lowfat milk or nonfat skim milk with added safe and
29 suitable microbial organisms and any other milk product made by the
30 addition or subtraction of milkfat or addition of safe and suitable optional
31 ingredients for protein, vitamin or mineral fortification of milk products
32 defined herein. "Milk products" ~~also include~~ *includes* those dairy foods
33 made by modifying the federally standardized products listed in this
34 section in accordance with 21 C.F.R. § 130.10, requirements for foods
35 named by use of a nutrient content claim and a standardized term. Milk
36 and milk products ~~which that~~ have been retort processed after packaging
37 or ~~which have been~~ concentrated, condensed or dried are included in this
38 definition only if they are used as an ingredient to produce any milk or
39 milk product defined herein or if they are labeled as Grade A as adopted
40 and described by rules and regulations promulgated under this act. Except
41 as otherwise provided, ~~the term~~ "milk ~~shall~~ *products*" *does* not include
42 dietary products, infant formula, ice cream or other desserts, butter or
43 cheese.

1 ~~(x)~~~~(y)~~(w) "Milk tank truck" means the term used to describe both a
2 bulk milk pick up tanker and a milk transport tank.

3 ~~(y)~~~~(z)~~(x) "Milk tank truck cleaning facility" means any place,
4 premises or establishment, other than a milk plant, receiving station or
5 transfer station, where a milk tank truck is cleaned and sanitized.

6 ~~(z)~~~~(x)~~(y) "Milk transport tank" means a vehicle including the truck
7 and tank, used by a bulk milk hauler or sampler to transport bulk
8 shipments of milk and milk products from a milk plant, receiving station
9 or transfer station to another milk plant, receiving station or transfer
10 station.

11 ~~(aa)~~~~(y)~~(z) "Milk transportation company" means the person, business
12 or entity responsible for a milk tank truck.

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

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

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

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

29 ~~(ff)~~~~(dd)~~(ee) "Plant fabricating single service articles" means any place
30 which that manufactures single service articles ~~which that~~ are expected to
31 come in contact with grade A milk or grade A milk products.

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

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

38 Sec. ~~4~~ 5. K.S.A. 65-778 is hereby amended to read as follows: 65-
39 778. (a) Any person who engages in business as a dairy manufacturing
40 plant shall first apply for and obtain a dairy manufacturing plant license
41 from the secretary and shall pay a license fee of \$120, or commencing July
42 1, 2002, and ending June 30, ~~2023~~ 2028, a license fee of \$200.

43 (b) Any person who engages in business as a distributor of milk, milk

1 products or dairy products shall first apply for and obtain a milk distributor
2 license from the secretary and shall pay a license fee of \$120, or
3 commencing July 1, 2002, and ending June 30, ~~2023~~ 2028, a license fee of
4 \$200. No milk distributor license shall be required for a licensed dairy
5 manufacturing plant which distributes only those products which it
6 manufactures.

7 (c) Any person who engages in business as a milk hauler shall first
8 apply for and obtain a milk hauler license from the secretary and shall pay
9 a license fee of \$25 or commencing July 1, 2002, and ending June 30,
10 ~~2023~~ 2028, a license fee of \$35. As part of the application, the secretary
11 may require the applicant to be tested regarding proper procedures for
12 sampling, testing and weighing milk or cream and state laws and rules and
13 regulations.

14 (d) Any person who operates a milk or cream transfer station or milk
15 or cream receiving station shall first apply for and obtain a milk or cream
16 station license from the secretary and shall pay a license fee of \$50, or
17 commencing July 1, 2002, and ending June 30, ~~2023~~ 2028, a license fee of
18 \$100.

19 (e) Any person who engages in business as a manufacturer of single
20 service dairy containers or manufacturer of single service dairy container
21 closures shall first apply for and obtain a single service manufacturing
22 license from the secretary and shall pay a license fee of \$50, or
23 commencing July 1, 2002, and ending June 30, ~~2023~~ 2028, a license fee of
24 \$100.

25 (f) Any person who operates a milk tank truck cleaning facility shall
26 first apply for and obtain a milk tank truck cleaning facility license from
27 the secretary and shall pay a license fee of \$100.

28 (g) Any license issued under this section shall be renewed annually.

29 (h) The dairy manufacturing plant license, milk distributor license,
30 milk tank truck cleaning facility license, milk or cream station license and
31 single service manufacturing license shall expire on December 31 of the
32 year ~~for which~~ it was issued unless suspended or revoked by the secretary
33 pursuant to this act. The milk hauler license shall expire on June 30
34 following the date of issuance unless suspended or revoked by the
35 secretary pursuant to this act.

36 (i) No license issued under this section shall be transferable. No
37 license shall be renewed if any assessments or fees required under this act
38 are delinquent.

39 (j) Each applicant for a license or for the renewal of such license shall
40 submit an application on a form supplied by the secretary accompanied by
41 the license fee. All licenses shall be conspicuously displayed in the
42 applicant's place of business.

43 (k) The secretary shall reduce any license fee in subsections (a)

1 through (f) by adopting rules and regulations whenever the secretary
2 determines that such fee is yielding more than is necessary for
3 administering the provisions of this act. The secretary may increase any
4 license fee in subsections (a) through (f) by adopting rules and regulations
5 when such license fee is necessary to produce sufficient revenues for
6 administering the provisions of this act. License fees in subsections (a)
7 through (f) shall not be increased in excess of the maximum amounts
8 provided in this section.

9 Sec. ~~5~~ **6**. K.S.A. 65-781 is hereby amended to read as follows: 65-
10 781. The following fees for the statewide system of milk inspection and
11 regulatory services are hereby established:

12 (a) A fee of \$.01, or commencing July 1, 2002, and ending June 30,
13 ~~2023~~ 2028, a fee of \$.015 for each 100 pounds of milk produced by milk
14 producers under Kansas grade A inspection shall be paid. Each producer is
15 hereby charged with such fee, which shall be paid to the milk producers'
16 cooperative, milk processor or milk distributor to whom the milk is sold or
17 delivered. Each cooperative, processor or distributor is hereby charged
18 with the duty of collecting such fees, which shall be remitted to the
19 secretary.

20 (b) A fee of \$.01, or commencing July 1, 2002, and ending June 30,
21 ~~2023~~ 2028, a fee of \$.02 for each 100 pounds of packaged grade A
22 pasteurized milk or milk products sold in Kansas at retail to the final
23 consumer shall be paid. Each distributor is hereby charged with such fee,
24 which shall be remitted to the secretary.

25 (c) A fee of ~~\$.01~~ **\$.0075**, or commencing July 1, 2002, and ending
26 June 30, ~~2023~~ 2028, a fee of \$.02 per 100 pounds or fraction thereof of
27 grade A raw milk for pasteurization delivered to a milk processor within
28 the state of Kansas ~~which~~ *that* is processed into grade A milk ~~or~~, grade A
29 milk products *or other dairy products* shall be paid. Each milk processor
30 is hereby charged with such fee, which shall be remitted to the secretary.
31 This fee shall not be paid if the milk is processed or manufactured at the
32 dairy where such milk is produced and less than 7,000,000 pounds of milk
33 are processed annually.

34 (d) A milk fee of \$.01, or commencing July 1, 2002, and ending June
35 30, ~~2023~~ 2028, a fee of \$.015 per 100 pounds of milk or cream for
36 manufacturing purposes produced by milk producers under Kansas
37 manufacturing grade milk inspection shall be paid. Each producer is
38 hereby charged with such fee, which shall be paid to the milk producers'
39 cooperative, dairy manufacturing plant or any other person to whom the
40 milk or cream for manufacturing purposes is sold or delivered. Each
41 cooperative, dairy manufacturing plant or other person is hereby charged
42 with the duty of collecting such fees, which shall be remitted to the
43 secretary.

1 (e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30,
2 ~~2023~~ 2028, a fee of \$.02 per 100 pounds of Kansas produced milk or
3 cream for manufacturing purposes or other Kansas produced milk
4 delivered to a dairy manufacturing plant shall be paid on all Kansas milk
5 used in the manufacturing of dairy products. As used in this subsection, ~~the~~
6 ~~term "dairy products shall"~~ does not include any frozen dairy dessert or
7 frozen dairy dessert mix. Each dairy manufacturing plant shall pay such
8 fee, which shall be remitted to the secretary. This fee shall not be paid if
9 the milk is processed or manufactured at the dairy where such milk is
10 produced and less than 7,000,000 pounds of milk are processed annually.

11 (f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or
12 commencing July 1, 2002, and ending June 30, ~~2023~~ 2028, a fee of \$2 per
13 thousand gallons of frozen dairy dessert or frozen dairy dessert mix shall
14 be paid by the manufacturer thereof. Each manufacturer of frozen dairy
15 dessert or frozen dairy dessert mix is hereby charged with such fee, which
16 shall be remitted to the secretary. Frozen dairy dessert mix which is further
17 processed into the corresponding frozen dairy dessert by the manufacturer
18 of the frozen dairy dessert mix shall not be subject to the fee required by
19 this subsection.

20 (g) A fee of \$1, or commencing July 1, 2002, and ending June 30,
21 ~~2023~~ 2028, a fee of \$2 per thousand gallons of frozen dairy dessert or
22 frozen dairy dessert mix imported for retail sale in Kansas shall be paid by
23 the milk distributor who imports these products.

24 (h) A fee of \$50 for the annual inspection of a milk tank truck as
25 required by this act. The milk transportation company that owns or leases
26 the milk tank truck shall pay such fee, which shall be remitted to the
27 secretary.

28 (i) If any fee computed pursuant to subsection (a) through (e) is less
29 than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed fee.
30 If any fee computed pursuant to subsection (f) or (g) is less than \$7.50, a
31 minimum fee of \$7.50 shall be paid in lieu of the computed fee.

32 (j) All fees established herein shall be paid to the secretary in the
33 following manner:

34 (1) The fees established in subsections (a) and (c) through (e) shall be
35 remitted on or before the 30th day of each month for the calendar month
36 immediately preceding and shall be accompanied by a report, in the form
37 prescribed by the secretary, indicating the quantities upon which the
38 remittance is based.

39 (2) The fees established in subsections (b), (f) and (g) shall be
40 remitted on April 30, July 31, October 31 and January 31 for the three
41 calendar months immediately preceding and shall be accompanied by a
42 report, in the form prescribed by the secretary, indicating the quantities
43 upon which the remittance is based.

1 (3) The fee established in subsection (h) shall be remitted within 60
2 days from the date of inspection.

3 (k) Any person who fails to remit all or any part of the required fee or
4 to submit the required report by the date due may be assessed an additional
5 charge equal to 1% of the amount of delinquent fees for each day after the
6 date due, or \$5, whichever amount is greater.

7 (l) The secretary shall reduce any inspection fee in subsections (a)
8 through (h) by adopting rules and regulations whenever the secretary
9 determines that such fee is yielding more than is necessary for
10 administering the provisions of this act. The secretary may increase any
11 inspection fee in subsections (a) through (h) by adopting rules and
12 regulations when such inspection fee is necessary to produce sufficient
13 revenues for administering the provisions of this act. License fees in
14 subsections (a) through (h) shall not be increased in excess of the
15 maximum amounts provided in this section.

16 ~~Sec. 6.~~ 7. K.S.A. 65-786 is hereby amended to read as follows: 65-
17 786. (a) If the secretary determines after notice and opportunity for a
18 hearing that any person has engaged in or is engaging in any act or
19 practice constituting a violation of any provision of this act or any rules
20 and regulations or order issued thereunder, the secretary may require that
21 such person cease and desist from the unlawful act or practice and take
22 such affirmative action as in the judgment of the secretary will carry out
23 the purposes of the violated or potentially violated provision of this act or
24 rules and regulations or order issued thereunder. Any such hearing shall be
25 held by the secretary or a presiding officer from the office of
26 administrative hearings.

27 (b) If the secretary makes written findings of fact that there is a
28 situation involving an immediate danger to the public health, safety or
29 welfare or that the public interest will be irreparably harmed by delay in
30 issuing an order under subsection (a), the secretary may issue an
31 emergency temporary cease and desist order. Such order, even when not an
32 order within the meaning of K.S.A. 77-502, and amendments thereto, shall
33 be subject to the same procedures as an emergency order issued under
34 K.S.A. 77-536, and amendments thereto. Upon the entry of such an order,
35 the secretary shall promptly notify the person subject to the order that:

36 (1) It has been entered;

37 (2) the reasons therefor; and

38 (3) that upon written request from the person subject to the order
39 within 15 days after service of the order the matter will be set for a hearing
40 which shall be conducted in accordance with the provisions of the Kansas
41 administrative procedure act. Any such hearing shall be held by the
42 secretary or presiding officer from the office of administrative hearings. If
43 no hearing is requested and none is ordered by the secretary, the order will

1 remain in effect until it is modified or vacated by the secretary. If a hearing
2 is requested or ordered the secretary, after giving notice of and opportunity
3 for hearings to the person subject to the order, shall by written findings of
4 fact and conclusions of law vacate, modify or make permanent the order.

5 (c) *When necessary to protect the public health, an imminent health*
6 *hazard may be declared by the secretary at any point in a chain of events*
7 *that ultimately may result in harm or danger to the public health. The*
8 *occurrence of the final anticipated injury or other disease-related*
9 *condition shall not be a prerequisite for the establishment of the existence*
10 *of an imminent health hazard and the use of any authority granted*
11 *pursuant to this act, including any action taken pursuant to subsection (a)*
12 *or (b) or K.S.A. 65-780a or 65-785, and amendments thereto.*

13 Sec. ~~7~~ **8.** K.S.A. 65-788 is hereby amended to read as follows: 65-
14 788. (a) Any licensee or any employee or agent thereof who violates any
15 provision of this act or any rules and regulations promulgated thereunder
16 *and any person who violates ~~K.S.A. 65-784a~~ section 1, and amendments*
17 *thereto*, in addition to any other penalty provided by law, may incur a civil
18 penalty imposed under subsection (b) in the amount fixed by rules and
19 regulations of the secretary in an amount not less than \$100 nor more than
20 \$300 for each violation and, in the case of a continuing violation, every
21 day such violation continues may be deemed a separate violation.

22 (b) No civil penalty shall be imposed pursuant to this section except
23 upon the written order of the secretary to the licensee who committed the
24 violation. Such order shall state the violation, the penalty to be imposed
25 and the right of the licensee to appeal to the secretary. Any such licensee
26 within 20 days after notification, may make written request to the secretary
27 for a hearing in accordance with the provisions of the Kansas
28 administrative procedure act. The secretary shall affirm, reverse or modify
29 the order and shall specify the reasons therefor.

30 (c) ~~Any licensee~~ *person subject to and* aggrieved by a final order of
31 the secretary made under this section may appeal such order to the district
32 court in the manner provided by the Kansas judicial review act.

33 (d) Any civil penalty recovered pursuant to the provisions of this
34 section shall be remitted to the state treasurer, deposited in the state
35 treasury and credited to the state general fund.

36 Sec. ~~8~~ **9.** K.S.A. ~~47-607c~~, 65-771, 65-778, 65-781, 65-786 and 65-
37 788 are hereby repealed.

38 Sec. ~~9~~ **10.** This act shall take effect and be in force from and after its
39 publication in the statute book.