

SENATE BILL No. 146

By Committee on Agriculture

2-6

1 AN ACT concerning agriculture; relating to milk, cream and dairy
2 products; definitions; on-farm retail sales of milk and milk products;
3 amending K.S.A. 2012 Supp. 65-771 and repealing the existing section.
4

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

6 Section 1. K.S.A. 2012 Supp. 65-771 is hereby amended to read as
7 follows: 65-771. As used in this act:

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

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

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

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

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

30 (f) "Frozen dairy dessert mix" means the pasteurized unfrozen
31 combination of all ingredients with or without fruits, fruit juices, candy,
32 nut meats, flavor or harmless color which makes a frozen dairy dessert.

33 (g) "Goat milk" means the normal lacteal secretion, practically free of
34 colostrum, obtained by the complete milking of one or more healthy goats.
35 Goat milk sold in retail packages shall contain not less than 2.5% milkfat
36 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) "Grade A pasteurized milk" means pasteurized milk which has at
3 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) "Grade A pasteurized milk products" means all pasteurized milk
12 products which 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 (j) "Grade A raw milk for pasteurization" means milk having at least
22 90% survey rating, as determined by a survey of the source conducted by
23 the secretary pursuant to the survey rating methods for conducting surveys
24 of the status of milk sanitation, the raw milk meeting the requirements for
25 grade A under the rules and regulations adopted pursuant to this act. The
26 secretary may authorize the use of the grade A designation for a temporary
27 time period on grade A raw milk for pasteurization within the statewide
28 system of milk inspection and regulatory services, although such milk does
29 not have at least a 90% survey rating.

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

41 (l) "In package form" means any commodity put up or packaged in
42 any manner in advance of sale so as to constitute a unit quantity of the
43 commodity for either wholesale or retail sale, exclusive of any auxiliary

1 container enclosing such packages which individually conform to the
2 requirements of this act.

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

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

15 (o) "Milk hauler/sampler" means any person who collects official
16 samples and may transport raw milk from a farm or raw milk products to
17 or from a milk plant or both, receiving station or transfer station and has in
18 their possession a permit from any state to sample such products.

19 (p) "Milk inspection and regulatory services" means the inspection,
20 sampling, laboratory testing and the administrative procedures relating
21 thereto, necessary to determine that the production, processing,
22 distribution and sale of grade A milk, milk products, and dairy products
23 comply with the requirements of this act and any rules and regulations
24 adopted hereunder.

25 (q) "Milk or cream for manufacturing purposes" means raw milk or
26 raw cream which is not subject to grade A standards and which is produced
27 for processing and manufacturing into dairy products for human
28 consumption. Milk for manufacturing purposes may contain less than
29 3.25% of butterfat and shall be delivered pure, sweet and clean.

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

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

35 (t) "Milk plant" means any place, premises or establishment where
36 milk or milk products are collected, handled, processed, stored,
37 pasteurized, ultrapasteurized, aseptically processed, condensed, dried,
38 packaged or prepared for distribution.

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

43 (v) "Milk producer" means any person who owns or operates a dairy

1 farm and who provides, sells or offers for sale grade A raw milk for
2 pasteurization or milk or cream for manufacturing purposes to a milk
3 plant, receiving station or transfer station.

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

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

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

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

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

43 (bb) "Misbranded" has the same meaning as ascribed to it in K.S.A.

1 65-665, and amendments thereto.

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

11 (dd) "Pasteurized" has the same meaning as ascribed to it in 21 C.F.R.
12 §§ 131.3 and 135.3.

13 (ee) "Person" means any individual, plant operator, partnership,
14 corporation, company, firm, trustee, association or institution.

15 (ff) "Plant fabricating single service articles" means any place which
16 manufactures single service articles which are expected to come in contact
17 with grade A milk or grade A milk products.

18 (gg) "Secretary" means the secretary of the Kansas department of
19 agriculture, or the secretary's designee.

20 (hh) "Single service article or container" means any container having
21 a milk or milk product-contact surface and used in the packaging,
22 handling, storage or servicing of grade A milk and is intended for one
23 usage only.

24 Sec. 2. K.S.A. 2012 Supp. 65-771 is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.