

Kansas Food Service and Lodging Act; Kansas Meat and Poultry Inspection Act; Senate Sub. for HB 2730

Senate Sub. for HB 2730 amends various sections in the Kansas Food Service and Lodging Act, and the Kansas Meat and Poultry Inspection Act.

Kansas Food Service and Lodging Act

The bill renames the Kansas Food Service and Lodging Act as the Kansas Lodging Inspection Act. In addition, the bill clarifies current practice by establishing a definition for the term “guest house” to mean every building or other structure where sleeping accommodations are furnished for pay. To meet the definition, a guest house could accommodate no more than seven guests in no more than three rooms. Under the provisions of the bill, guest houses are not required to have a lodging license, but are required to be inspected if there is a complaint.

The bill also:

- Clarifies that any lodging establishment which also has a food establishment license will have fees set by rule and regulation;
- Clarifies that a lodging establishment operated in connection with any premise licensed, registered, or permitted by the Secretary of Health and Environment, Secretary of Aging, the Secretary of Corrections, or the Secretary of Social and Rehabilitation Services is not required to obtain a license, nor is the Secretary of Agriculture authorized to inspect these premises;
- Gives express authority to the Secretary of Agriculture (Secretary) to promulgate rules and regulations with respect to the licensure of lodging establishments and fees related to licensure and inspection; and
- Clarifies authority to seek injunctive relief when the operator has failed to comply with the standards established or the rules and regulations.

Kansas Food, Drug and Cosmetic Act

The bill also makes numerous amendments to the Kansas Food, Drug and Cosmetic Act, under which certain food establishments and food processing plants are regulated.

The bill:

- Allows the Secretary to impose a civil penalty, after providing notice and an opportunity for a hearing, and establishes a cap on civil penalties at \$1,000 per violation;
- Provides that any location that meets the definition of both a food processing plant and a food establishment must have licenses for both; and

- Establishes an application fee for each food establishment and food processing plant location not to exceed \$350.

Further, the bill statutorily establishes annual license fees for each food establishment, clarifies that elementary and secondary schools that have a school lunch program have separate application and license fees, and establishes in statute the list of business entities that are exempt from licensing and inspection. Those exempt business entities are:

- Registered nonprofit organizations that provide food without charge;
- Locations where prepackaged individual meals are distributed;
- Persons who produce food for distribution directly to the end consumer;
- Persons who serve food exclusively on interstate conveyances;
- Persons operating a food establishment for less than seven days in any calendar year;
- Persons who prepare, serve, or sell food for the sole purpose of soliciting funds;
- Persons operating a food vending machine;
- Persons providing only complimentary coffee;
- Persons operating a farm winery;
- Retailers who sell only alcoholic liquors and cereal malt beverages;
- Food establishments that sell or offer for sale only packaged certain foods that are non-hazardous and are received directly from a licensed food production facility in packaged form;
- Persons who provide food samples, without charge; and
- A guest house, as defined in the bill.

Other amendments clarify administrative and enforcement provisions in a manner consistent with the Kansas Administrative Procedure Act and repeal unnecessary statutes.

Kansas Meat and Poultry Inspection Act

The bill adds new sections to and amends existing sections in the Kansas Meat and Poultry Act (Act).

Voluntary Inspections

The bill provides for voluntary inspections of animals other than livestock, poultry, or rabbits which can or may be used in and for the preparation of meat or meat products and poultry or poultry products. The voluntary inspections provide greater flexibility for operations wanting to slaughter the animals listed above under inspection.

The requests for voluntary inspections are to be submitted to the Secretary of Agriculture who then can refuse the request due to issues of staffing, inspector expertise, or any other good cause shown. Priority in scheduling the inspections is to be given to those inspections

mandated by the Act. The Secretary also has the power to establish fees for voluntary inspections. In addition, the Secretary has the authority to prescribe rules and regulations for implementing the provisions of voluntary inspections.

Inspection Services

The bill contains provisions for when inspection services are required and instructs the Secretary to take into account the efficient and effective use of personnel when approving inspection work schedules.

Specifically, the bill clarifies that operations requiring inspections under the Act cannot proceed unless operated under the supervision of a representative of the Secretary. All slaughtering of animals is to be done under the direct supervision of a representative of the Secretary and with reasonable speed.

The bill establishes the procedures for establishing and approving a work schedule for processing and slaughter operations. Each official establishment applying the mark of inspection is required to submit a work schedule to the Secretary for approval upon the occurrence of any of the following:

- Prior to the inauguration of the inspection;
- When a change in work schedule is requested, except for minor deviations from a daily operating schedule approved by the area supervisor; or
- Upon request by a representative of the Secretary.

The submitted work schedules are required to specify the daily clock hours of inspected operations.

The bill requires the Secretary to take into account the efficient and effective use of inspection personnel when approving work schedules, as well as to consult with the establishments involved when designating work schedules. In addition, the bill requires establishments to maintain consistent work schedules. The Secretary is authorized to prescribe, through rules and regulations, the process by which an establishment may request a change in its work schedule.

Inhumane Slaughter and Inhumane Handling

The Secretary, for purposes of preventing the inhumane slaughter or inhumane handling in connection with the slaughter of livestock, domestic rabbits, or poultry must authorize inspectors to perform an examination and inspection of the method by which those animals are slaughtered and handled. In addition, the Secretary is authorized to prescribe rules and regulations for the examination and inspection of methods by which livestock, domestic rabbits, or poultry are slaughtered.

Custom Slaughter

The bill amends portions of the Act with regard to custom slaughter. Any carcass, meat, or meat products prepared on a custom basis, including any containers or packages containing such products, must be plainly marked "Not for Sale" immediately after being prepared and kept identified as such until delivered to the owner.

Custom slaughter and preparation also is subject to the humane slaughter and humane handling provisions of the Act.

Definitions

The bill updates existing sections of the Act by updating definitions, deleting obsolete definitions, and defining new terms, including "public warehouseman," "slaughter facility," "processing facility," "wholesaler," and "Humane Slaughter Act."

Fees

The bill establishes a \$25 registration fee for all registrations, including for those facilities operating on a custom basis and facilities operating in conjunction with and under the jurisdiction of the Kansas Board of Regents. The bill removes the provisions for the registration fee and other calculations that previously had been required by the Kansas Department of Agriculture.

Records

The bill requires any person registered or required to be registered under the Act to keep records that fully and accurately disclose transactions related to animals prepared for and capable for use as human food. All persons, firms, and corporations subject to this requirement will provide access to their places of business and provide an opportunity to examine the facilities, inventory, and records, and to copy records.

Any records required to be maintained shall be maintained for a period of time as the Secretary shall prescribe by rules and regulations.