

CORRECTED

As Amended by Senate Committee

Session of 2020

SENATE BILL No. 308

By Committee on Agriculture and Natural Resources

1-23

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

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

7 New Section 1. (a) The on-farm retail sale of milk or milk products
8 shall be lawful, so long as each container of ~~ungraded~~ **unpasteurized** raw
9 milk sold or offered for sale ~~contains~~ **bears** a label that *is* clearly **visible**
10 **and** states the following **or its equivalent**: "This product contains ~~ungraded~~
11 raw milk that is not pasteurized ~~and, as a result, may contain organisms~~
12 ~~that cause food-borne illness, especially in infants, young children, older~~
13 ~~adults, pregnant women and people with weak immune systems."~~ This
14 statement shall be in letters of a uniform size and no smaller than the
15 largest font used elsewhere on the label.

16 (b) Any person who engages in the on-farm retail sale of milk or milk
17 products may advertise such milk or ~~milk products~~ **if milk products**. *Any*
18 such advertisement ~~clearly states the following~~: "This product contains
19 ~~ungraded raw milk that is not pasteurized and, as a result, may contain~~
20 ~~organisms that cause food-borne illness, especially in infants, young~~
21 ~~children, older adults, pregnant women and people with weak immune~~
22 ~~systems."~~ **shall not be false or misleading and shall state that such milk**
23 **or milk products are either raw or unpasteurized**. If such advertisement is
24 in print or other written or visual form, this statement shall be ~~in letters of~~
25 a uniform size and no smaller than the largest font used elsewhere in the
26 advertisement **clearly visible**.

27 Sec. 2. K.S.A. 65-771 is hereby amended to read as follows: 65-771.
28 As used in this act:

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

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

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

7 (d) "Dairy products" means products ~~which that~~ may be made from
8 milk or cream for manufacturing purposes and ~~which~~ are not required to
9 meet grade A standards, ~~including~~. "Dairy products" includes butter,
10 cheese, dry whole milk, nonfat dry milk, dry buttermilk, dry whey,
11 evaporated milk, whole or skim, condensed whole milk, condensed skim
12 milk, sweetened or plain, frozen dairy dessert, ~~and~~ frozen dairy dessert
13 mixes and such other products as may be otherwise designated by rules
14 and regulations.

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

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

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

28 ~~(h)~~—"Grade A pasteurized milk" means pasteurized milk ~~which that~~
29 has at least a 90% survey rating, as determined by a survey of the source
30 conducted by the secretary pursuant to the survey rating methods for
31 conducting surveys of the status of milk sanitation. The milk shall meet the
32 requirements for grade A under the rules and regulations adopted pursuant
33 to this act. The secretary may authorize the use of the grade A designation
34 for a temporary time period on grade A pasteurized milk within the
35 statewide system of milk inspection and regulatory services, although such
36 grade A pasteurized milk does not have at least a 90% survey rating.

37 ~~(+)(h)~~ "Grade A pasteurized milk products" means all pasteurized
38 milk products ~~which that~~ have at least a 90% survey rating, as determined
39 by a survey of the source conducted by the secretary pursuant to the survey
40 rating methods for conducting surveys of the status of milk sanitation. The
41 pasteurized milk products shall meet the requirements for grade A under
42 rules and regulations adopted pursuant to this act. The secretary may
43 authorize the use of the grade A designation for a temporary time period on

1 grade A pasteurized milk products within the statewide system of milk
 2 inspection and regulatory services, although such grade A pasteurized milk
 3 products do not have at least a 90% survey rating.

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

14 ~~(k)~~(j) "Imminent health hazard" means any condition—~~which that~~
 15 involves milk, milk products, or dairy products, or any practice or
 16 procedure in the handling, transportation, storage, processing or
 17 manufacturing of a milk, milk product or dairy product—~~which that~~ poses a
 18 significant threat of danger to the public health—~~which that~~ should be
 19 corrected immediately to prevent injury or sickness and—~~which that~~ should
 20 not be permitted to continue while a hearing or other proceeding is being
 21 conducted. An imminent health hazard may be declared at any point in a
 22 chain of events—~~which that~~ ultimately may result in harm or danger to the
 23 public health. The occurrence of the final anticipated injury or other
 24 disease related condition shall not be a prerequisite for the establishment
 25 of the existence of an imminent health hazard.

26 ~~(l)~~(k) "In package form" means any commodity put up or packaged in
 27 any manner in advance of sale so as to constitute a unit quantity of the
 28 commodity for either wholesale or retail sale, exclusive of any auxiliary
 29 container enclosing such packages—~~which that~~ individually conform to the
 30 requirements of this act.

31 ~~(m)~~~~(l)~~ (l) "Milk" means the lacteal secretion, practically free from
 32 colostrum, obtained by the complete milking of one or more healthy ~~eows~~
 33 ~~mammals.~~ ~~"Milk" includes goat milk.~~ Milk that is **Except for on-farm**
 34 **retail sale of milk or milk products, milk sold** in final package form ~~for~~
 35 ~~beverage use~~ shall have been pasteurized or ultrapasteurized, and shall
 36 contain not less than 8.25% milk solids not fat and not less than 3.25%
 37 milkfat. Milk may have been adjusted by separating part of the milkfat
 38 therefrom, or by adding thereto cream, concentrated milk, dry whole milk,
 39 skim milk, concentrated skim milk, or nonfat dry milk. Milk may be
 40 homogenized. Milk shall be interpreted to include goat milk.

41 ~~(2)~~ ~~"Milk" does not include milk or milk products produced for on-~~
 42 ~~farm retail sale.~~

43 ~~(n)~~(m) "Milk distributor" means any person who first sells or offers

1 for sale in Kansas any packaged grade A pasteurized milk, milk product, or
2 dairy product.

3 ~~(n)~~**(n)** "Milk ~~hauler/sampler~~ *hauler or sampler*" means any person
4 who collects official samples and may transport raw milk from a farm or
5 raw milk products to or from a milk plant or both, receiving station or
6 transfer station and has in their possession a permit from any state to
7 sample such products.

8 ~~(o)~~**(o)** "Milk inspection and regulatory services" means the
9 inspection, sampling, laboratory testing and the administrative procedures
10 relating thereto, necessary to determine that the production, processing,
11 distribution and sale of grade A milk, milk products, and dairy products
12 comply with the requirements of this act and any rules and regulations
13 adopted hereunder.

14 ~~(p)~~**(p)** "Milk or cream for manufacturing purposes" means raw milk
15 or raw cream ~~which~~ *that* is not subject to grade A standards and ~~which~~ is
16 produced for processing and manufacturing into dairy products for human
17 consumption. Milk for manufacturing purposes may contain less than
18 3.25% of butterfat and shall be delivered pure, sweet and clean.

19 ~~(q)~~**(q)** "Milk or cream receiving station" means any place where milk
20 or cream may be received, collected, handled, processed, stored or
21 collected and prepared for further transporting.

22 ~~(r)~~**(r)** "Milk or cream transfer station" means any place where milk or
23 cream are transferred directly from one milk tank truck to another.

24 ~~(s)~~**(s)** "Milk plant" means any place, premises or establishment where
25 milk or milk products are collected, handled, processed, stored,
26 pasteurized, ultrapasteurized, aseptically processed, condensed, dried,
27 packaged or prepared for distribution.

28 ~~(t)~~**(t)** "Milk processor" means any person who operates any place,
29 premises or establishment where grade A raw milk for pasteurization or
30 milk or cream for manufacturing purposes is processed, pasteurized,
31 bottled or prepared for distribution.

32 ~~(u)~~**(u)** "Milk producer" means any person who owns or operates a
33 dairy farm and who provides, sells or offers for sale grade A raw milk for
34 pasteurization or milk or cream for manufacturing purposes to a milk
35 plant, receiving station or transfer station.

36 ~~(v)~~**(v)** "Milk products" means cream, light cream, light whipping
37 cream, heavy cream, heavy whipping cream, whipped cream, whipped
38 light cream, sour cream, acidified sour cream, cultured sour cream, half-
39 and-half, sour half-and-half, acidified sour half-and-half, cultured sour
40 half-and-half, reconstituted or recombined milk and milk products,
41 concentrated milk, concentrated milk products, nonfat skim milk, reduced
42 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured
43 milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk,

1 yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat
2 or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium
3 reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced
4 milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat
5 skim milk, aseptically processed and packaged milk and milk products,
6 milk, reduced fat or lowfat milk or nonfat skim milk with added safe and
7 suitable microbial organisms and any other milk product made by the
8 addition or subtraction of milkfat or addition of safe and suitable optional
9 ingredients for protein, vitamin or mineral fortification of milk products
10 defined herein. "Milk products" also ~~include~~ *includes* those dairy foods
11 made by modifying the federally standardized products listed in this
12 section in accordance with 21 C.F.R. § 130.10, requirements for foods
13 named by use of a nutrient content claim and a standardized term. Milk
14 and milk products ~~which that~~ have been retort processed after packaging
15 or ~~which~~ have been concentrated, condensed or dried are included in this
16 definition only if they are used as an ingredient to produce any milk or
17 milk product defined herein or if they are labeled as Grade A as adopted
18 and described by rules and regulations promulgated under this act. Except
19 as otherwise provided, ~~the term~~ "milk ~~shall~~ *products*" *does* not include
20 dietary products, infant formula, ice cream or other desserts, butter or
21 cheese.

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

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

27 ~~(z)~~*(y)* "Milk transport tank" means a vehicle including the truck and
28 tank, used by a bulk milk hauler or sampler to transport bulk shipments of
29 milk and milk products from a milk plant, receiving station or transfer
30 station to another milk plant, receiving station or transfer station.

31 ~~(aa)~~*(z)* "Milk transportation company" means the person, business or
32 entity responsible for a milk tank truck.

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

35 ~~(cc)~~*(bb)* "On-farm retail sales of milk or milk products" means the
36 sale of ~~ungraded unpasteurized~~ *ungraded unpasteurized* raw milk or
37 milk products on the farm by the producer from the production of the dairy
38 herd to the final consumer, ~~so long as the person making such sales does~~
39 ~~not promote the sale of milk or milk products to the public in any manner~~
40 ~~other than by the erection of a sign upon the premises of the dairy farm.~~
41 ~~The advertisement upon any such sign shall state that such milk or milk~~
42 ~~products are raw and shall be in letters of a uniform size. Each container in~~
43 ~~which any unpasteurized milk is sold or offered for sale shall be clearly~~

1 ~~labeled as ungraded raw milk.~~

2 ~~(dd)(cc)~~ "Pasteurized" ~~has the same meaning as ascribed to it means~~
3 ~~the same as provided in 21 C.F.R. §§ 131.3 and 135.3, as in effect on July~~
4 ~~1, 2020.~~

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

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

10 ~~(gg)(ff)~~ "Secretary" means the secretary of the Kansas department of
11 agriculture; or the secretary's designee.

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

16 Sec. 3. K.S.A. 65-771 is hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.