

SENATE BILL No. 61

By Committee on Agriculture

1-18

AN ACT concerning meat and poultry; relating to the definitions of wholesaler, distributor and public warehouseman; amending K.S.A. 65-6a34 and K.S.A. 2000 Supp. 65-6a18 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 65-6a18 is hereby amended to read as follows: 65-6a18. As used in this act:

(a) "Secretary" means the secretary of the state board of agriculture.

(b) "Person" means any individual, partnership, firm, corporation, association or other business unit or governmental entity.

(c) "Meat broker" means any person, firm or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of livestock on commission, or otherwise negotiating purchases or sales of such articles other than for the person's own account or as an employee of another person.

(d) "Poultry products broker" means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for the person's own account or as an employee of another person.

(e) "Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of livestock, domestic rabbits or poultry.

(f) "Intrastate commerce" means commerce within the state of Kansas.

(g) "Meat food product" means any product capable of use as human food which is made wholly or in part from any meat or other portions of the carcasses of any livestock or domestic rabbits, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry and which are exempted from definition as a meat food product by the secretary under such conditions as the secretary may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that

1 such products are not represented as meat food products.

2 (h) "Poultry" means any domesticated bird, whether live or dead.

3 (i) "Poultry product" means any poultry carcass, or part thereof or
4 any product which is made wholly or in part from any poultry carcass or
5 part thereof, excepting products which contain poultry ingredients only
6 in a relatively small proportion or historically have not been considered
7 by consumers as products of the poultry food industry and which are
8 exempted by the secretary from definition as a poultry product under
9 such conditions as the secretary may prescribe to assure that the poultry
10 ingredients in such products are not adulterated and that such products
11 are not represented as poultry products.

12 (j) "Capable of use as human food" means any carcass, or part or
13 product of a carcass, of any animal unless it is denatured or otherwise
14 identified as required by regulations adopted by the state board of agri-
15 culture to deter its use as human food or it is naturally inedible by
16 humans.

17 (k) "Prepared" means slaughtered, canned, salted, rendered, boned,
18 cut up or otherwise manufactured or processed.

19 (l) "Adulterated" means any carcass, or part thereof, any meat or
20 meat food product, or any poultry or poultry product under one or more
21 of the following circumstances:

22 (1) If the product bears or contains any poisonous or deleterious sub-
23 stance which may render it injurious to health, except that if the substance
24 is not an added substance, the product shall not be considered adulterated
25 if the quantity of such substance on or in the product does not render it
26 injurious to health;

27 (2) (A) if the product bears or contains, by reason of administration
28 by feeding or by injection of any substance to the live animal or otherwise,
29 any added poisonous or added deleterious substance, other than one
30 which is (i) a pesticide chemical in or on a raw agricultural commodity;
31 (ii) a food additive; or (iii) a color additive, which, in the judgment of the
32 secretary, may make the product unfit for human food;

33 (B) if the product is, in whole or in part, a raw agricultural commodity
34 and bears or contains a pesticide chemical which is unsafe within the
35 meaning of rules and regulations adopted by the state board of
36 agriculture;

37 (C) if the product bears or contains any food additive which is
38 deemed unsafe in accordance with rules and regulations adopted by the
39 state board of agriculture;

40 (D) if the product bears or contains any color additive which is
41 deemed unsafe in accordance with rules and regulations adopted by the
42 state board of agriculture; or

43 (E) any such product which is not adulterated under provisions (B),

1 (C) or (D) shall nevertheless be deemed adulterated if the use of the
2 pesticide chemical, the food additive or the color additive on or in such
3 product is prohibited by rules and regulations of the state board of agri-
4 culture in establishments at which inspection is maintained under this
5 act;

6 (3) if the product consists, in whole or in part, of any filthy, putrid or
7 decomposed substance or is for any other reason unsound, unhealthful,
8 unwholesome or otherwise unfit for human food;

9 (4) if the product has been prepared, packed or held under insanitary
10 conditions whereby it may have become contaminated with filth or
11 whereby it may have been rendered injurious to health;

12 (5) if the product is, in whole or in part, the product of an animal
13 which has died otherwise than by slaughter;

14 (6) if the container for the product is composed, in whole or in part,
15 of any poisonous or deleterious substance which may render the contents
16 injurious to health;

17 (7) if the product has been intentionally subjected to radiation, unless
18 the use of the radiation was in conformity with a regulation or exemption
19 in effect pursuant to rules and regulations adopted by the state board of
20 agriculture;

21 (8) (A) if any valuable constituent on or in the product has been, in
22 whole or in part, omitted or abstracted therefrom;

23 (B) if any substance has been extracted and substitution made there-
24 for, in whole or in part, or if any damage to, or inferiority of, the product
25 has been concealed in any manner; or

26 (C) if any substance has been added to such product, or if any sub-
27 stance has been mixed or packed therewith, so as (i) to increase the bulk
28 or weight of the product (ii) to reduce the quality or strength of the
29 product or (iii) to make the product appear better or of greater value than
30 it is, except that this provision does not apply to any cured or smoked
31 pork product by reason of its containing added water; or

32 (9) if the product is a margarine containing animal fat and if any of
33 the raw material used therein consisted, in whole or in part, of any filthy,
34 putrid or decomposed substance.

35 (m) "Misbranded" means any carcass, part thereof, meat or meat
36 food product, or poultry or poultry product, under any one or more of
37 the following circumstances:

38 (1) If the labeling on the product or product container is false or
39 misleading in any particular;

40 (2) if the product is offered for sale under the name of another food;

41 (3) if the product is an imitation of another food, unless its label bears,
42 in type of uniform size and prominence, the word "imitation" and im-
43 mediately thereafter, the name of the food imitated;

1 (4) if the container on the product is so made, formed or filled as to
2 be misleading;

3 (5) if the product is in a package or other container, unless it bears a
4 label showing (A) the name and place of business of the manufacturer,
5 packer or distributor and (B) an accurate statement of the quantity of the
6 contents in terms of weight, measure or numerical count; under clause
7 (A) of this provision, reasonable variations may be permitted and exemp-
8 tions as to small packages may be established by rules and regulations
9 adopted by the state board of agriculture;

10 (6) if any word, statement or other information, which is required by
11 or under authority of this act to appear on the label or other labeling for
12 the product, is not prominently placed thereon with such conspicuousness
13 (as compared with other words, statements, designs or devices in the
14 labeling) and in such terms as to render it likely to be read and understood
15 by the ordinary individual under customary conditions of purchase and
16 use;

17 (7) if the product purports to be, or is represented to be, a food for
18 which a definition and standard of identity or composition has been pre-
19 scribed by rules and regulations of the state board of agriculture, unless
20 (A) it conforms to such definition and standard and (B) the label thereon
21 bears the name of the food specified in the definition and standard, and
22 insofar as may be required by such rules and regulations, the common
23 names of optional ingredients (other than spices, flavoring and coloring)
24 present in such food;

25 (8) if the product purports to be, or is represented to be, a food for
26 which a standard of fill of container has been prescribed by rules and
27 regulations of the state board of agriculture and if such product falls below
28 the standard of fill of container applicable thereto, unless its label bears,
29 in such manner and form as such rules and regulations specify, a state-
30 ment that it falls below such standard;

31 (9) if the product is not subject to provision (7), unless its label bears
32 (A) the common or usual name of the food, if there is any, and (B) in
33 case it is fabricated from two or more ingredients, the common or usual
34 name of each such ingredient, except that spices, flavorings and colorings,
35 when authorized by the secretary, may be designated as spices, flavorings
36 and colorings without naming each; to the extent that compliance with
37 the requirements of clause (B) of this provision is impracticable or results
38 in deception or unfair competition, exemptions shall be established by
39 rules and regulations adopted by the state board of agriculture;

40 (10) if the product purports to be, or is represented to be, for special
41 dietary uses, unless its label bears such information concerning its vita-
42 min, mineral and other dietary properties as the secretary, after consul-
43 tation with the secretary of agriculture of the United States, determines

1 to be, and by rules and regulations adopted by the state board of agri-
2 culture are prescribed to be, necessary in order to fully inform a purchaser
3 as to its value for such uses;

4 (11) if the product bears or contains any artificial flavoring, artificial
5 coloring or chemical preservative, unless it bears labeling stating that fact;
6 to the extent that compliance with the requirements of this provision is
7 impracticable, exemptions shall be established by rules and regulations
8 adopted by the state board of agriculture; or

9 (12) if the product fails to bear directly thereon, or on the product
10 container, as the state board of agriculture may prescribe by rules and
11 regulations, the inspection legend unrestricted by any of the foregoing
12 and such other information as the state board of agriculture may require
13 in such rules and regulations to assure that the product will not have any
14 false or misleading labeling and that the public will be informed of the
15 manner of handling required to maintain the product in a wholesome
16 condition.

17 (n) "Label" means a display of written, printed or graphic matter
18 upon the immediate container (not including package liners) of any
19 article.

20 (o) "Labeling" means all labels and other written, printed or graphic
21 matter (1) upon any article or any of its containers or wrappers or (2)
22 accompanying the article.

23 (p) "Federal meat inspection act" means the act so entitled, approved
24 March 4, 1907, (21 U.S.C.A. 601 *et seq.*, 34 Stat. 1260) as amended by
25 the federal wholesome meat act (8 Stat. 584).

26 (q) "Federal food, drug and cosmetic act" means the act so entitled,
27 approved June 25, 1938, (21 U.S.C.A. 301 *et seq.*, 52 Stat. 1040) and acts
28 amendatory thereof or supplementary thereto.

29 (r) "Federal poultry products inspection act" means the act so enti-
30 tled, approved August 28, 1957, (21 U.S.C.A. 451 *et seq.*, 71 Stat. 441) as
31 amended by the federal wholesome poultry products act (82 Stat. 791).

32 (s) "Pesticide chemical," "food additive," "color additive" and "raw
33 agricultural commodity" have the meanings for purposes of this act as
34 ascribed thereto under K.S.A. 65-656 and amendments thereto.

35 (t) "Official mark" means the official inspection legend or any other
36 symbol prescribed by rules and regulations of the state board of agricul-
37 ture to identify the status of any article or animal under this act.

38 (u) "Official inspection legend" means any symbol prescribed by
39 rules and regulations of the state board of agriculture showing that an
40 article was inspected and passed in accordance with this act.

41 (v) "Official certificate" means any certificate prescribed by rules and
42 regulations of the state board of agriculture for issuance by an inspector
43 or other person performing official functions under this act.

1 (w) "Official device" means any device prescribed or authorized by
2 the state board of agriculture for use in applying any official mark.

3 (x) "Slaughterhouse" means any plant which carries on the slaughter
4 and dressing of animals but which does not engage in the further proc-
5 essing of meat into meat food products.

6 (y) "Packing plant" or "packing house" means any installation proc-
7 essing meat into meat food products.

8 (z) "Buffalo" means the American buffalo or bison (*Bos*, *Bison bison*
9 or *Bison americanus*).

10 (aa) "Livestock" means cattle, buffaloes, sheep, swine, goats, domes-
11 ticated deer, all creatures of the ratite family that are not indigenous to
12 this state, including but not limited to ostriches, emus and rheas or horses,
13 mules or other equines.

14 (bb) "Slaughter facility" means a slaughterhouse or poultry dressing
15 plant.

16 (cc) "Processing facility" means a packing house, sausage plant or
17 poultry packing plant.

18 (dd) "Domesticated deer" means any member of the family cervidae
19 which was legally obtained and is being sold or raised in a confined area
20 for breeding stock; for any carcass, skin or part of such animal; for exhi-
21 bition; or for companionship.

22 (ee) "*Wholesaler*" means any person engaged in the distribution of
23 inspected and passed meat, meat products, poultry or poultry products
24 between the manufacturer and the retailer. Wholesalers may not sell prod-
25 ucts directly to consumers, and may not further process or repackage the
26 product.

27 (ff) "*Distributor*" means any person engaged in the distribution of
28 inspected and passed meat, meat products, poultry or poultry products
29 either between the manufacturer and retailer, or directly from manufac-
30 turer to consumer. Distribution does not include further processing or
31 repackaging the product. Distributors may sell individually packaged
32 products bearing complete consumer labels.

33 (gg) "*Public warehouseman*" means any person engaged in the busi-
34 ness of storing for commerce any meat, meat products, poultry or poultry
35 products without assuming ownership of the product in storage.

36 Sec. 2. K.S.A. 65-6a34 is hereby amended to read as follows: 65-
37 6a34. (a) No person shall (1) engage in business, in or for intrastate com-
38 merce, as a meat broker or animal food manufacturer, (2) engage in busi-
39 ness in such commerce as a wholesaler or distributor of any carcasses, or
40 parts or products of the carcasses, of any livestock, domestic rabbits or
41 poultry, whether intended for human food or other purposes, or (3) en-
42 gage in business as a public warehouseman storing any such articles in or
43 for such commerce, without first having registered with the secretary such

1 person's name and the address of each place of business at which, and
2 all trade names under which, such person conducts such business and
3 having paid the registration fee established by this section, if applicable.

4 (b) No person shall engage in business or operate a packing house,
5 sausage plant, poultry packing plant, slaughterhouse or poultry dressing
6 plant without registering such person's name and place of business with
7 the secretary, and paying the registration fee established by this section.

8 (c) Except as provided in subsection (c)(6):

9 (1) An annual registration fee of \$50 shall be charged for the regis-
10 tration of each meat broker, poultry product broker, *wholesaler, distrib-*
11 *utor, public warehouseman*, animal food manufacturer, seasonal poultry
12 packing or dressing plant, state-owned slaughter or processing facility
13 operated in conjunction with education and research and located at in-
14 stitutions under the jurisdiction of the state board of regents, or slaughter
15 or processing facility operated in conjunction with education and research
16 and located at a public secondary school, and each such registration shall
17 expire on December 31 of each year.

18 (2) Except for persons who register under paragraph (1) of this sub-
19 section (c), an annual registration fee of \$150 shall be charged for the
20 registration of each slaughter facility which slaughters 300 animal units
21 or less annually, and such registration shall expire on December 31 of
22 each year.

23 (3) An annual registration fee of \$200 shall be charged for the reg-
24 istration of each slaughter or processing facility which operates solely on
25 a custom basis as defined by subsection (b)(1) of K.S.A. 65-6a31 and
26 amendments thereto, and such registration shall expire on December 31
27 of each year.

28 (4) Except for those persons who have registered under paragraphs
29 (1), (2) or (3) of this subsection (c), an annual registration fee of \$250
30 shall be charged for each processing facility and each slaughter facility
31 which slaughters more than 300 animal units annually, and such registra-
32 tion shall expire on December 31 of each year.

33 (5) As used in this subsection (c), animal units shall be computed by
34 using one unit for each bovine, bison, horse, mule or other equine, .6
35 unit for each swine, .4 unit for each sheep or goat and as specified by
36 rule and regulation for other animal units.

37 (6) Persons who become subject to registration under this section
38 after January 1 shall pay an amount equal to $\frac{1}{12}$ of the annual registration
39 fee which would have been due for a full year, multiplied by the number
40 of full calendar months remaining in the registration year and adjusted
41 to the nearest dollar amount.

42 (d) Any person whose completed application for renewal of a regis-
43 tration required by this section is not received by January 15 of the year

1 of renewal shall be subject to a reinstatement fee which shall be paid in
2 addition to the required registration fee. If the completed application for
3 renewal of a registration required by this section is received by the sec-
4 retary after January 15 and on or before January 31 of the year of renewal,
5 the reinstatement fee shall be \$10. If the completed application for re-
6 newal of a registration required by this section is received after January
7 31 of the year of renewal, the amount of the reinstatement fee shall be
8 increased at the rate of \$25 per month for each additional month or
9 fraction thereof. No registration required by this section shall be rein-
10 stated if it has been delinquent for one year. No registration required by
11 this section shall be issued until all applicable reinstatement fees, if any,
12 have been paid.

13 Sec. 3. K.S.A. 65-6a34 and K.S.A. 2000 Supp. 65-6a18 are hereby
14 repealed.

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

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