

# HOUSE BILL No. 2701

By Committee on Agriculture

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AN ACT concerning agriculture; relating to powers, duties and responsibilities of secretary of agriculture; fees and penalties; amending K.S.A. 2-1205, 2-2204, 2-2440, 2-2440b, 2-2441a, 2-2443a, 2-2445a, 2-2805, 2-2806, 2-2905, 2-2906, 2-3304, 2-3306, 2-3318, 65-6a34, 82a-727, 82a-732, 83-201 and 83-205 and K.S.A. 2001 Supp. 65-6a18, 65-771, 65-775, 65-778, 65-781, 65-782, 65-789, 82a-708a, 82a-708b, 82a-714, 83-302 and 83-402 and repealing the existing sections.

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

Section 1. K.S.A. 2-1205 is hereby amended to read as follows: 2-1205. An inspection fee shall be collected upon all commercial fertilizers sold, offered or exposed for sale, or distributed in Kansas, which shall be at a rate per ton of 2,000 pounds fixed by rules and regulations adopted by the secretary of agriculture, except that such rate shall not exceed \$1.67 per ton of 2,000 pounds. The secretary of agriculture may adopt rules and regulations establishing the inspection fee rate under this section. Each person registering any commercial fertilizer shall pay the inspection fee on such commercial fertilizer sold, offered or exposed for sale, or distributed in Kansas, ~~and~~ *Each such person* shall keep adequate records showing the tonnage of each commercial fertilizer shipped to or sold, offered or exposed for sale, or distributed in Kansas, ~~and~~. The secretary, and duly authorized representatives of the secretary, shall have authority to examine such records and other pertinent records necessary to verify the statement of tonnage.

Each person registering any commercial fertilizer shall file an affidavit semiannually, with the secretary, within 30 days after each January 1 and each July 1, showing the tonnage of commercial fertilizer sold or distributed in Kansas for the preceding six-month period, ~~and~~ *Each such person* shall pay to the secretary the inspection fee due ~~thereon~~ for such six-month period, except that the registrant shall not be required to pay the inspection fee or report the tonnage of commercial fertilizers or fertilizer materials sold and shipped directly to fertilizer manufacturers or mixers; ~~but~~. The fertilizer manufacturers or mixers shall keep adequate records of the commercial fertilizers sold or distributed in this state, and report to the secretary the tonnage ~~thereof~~ and pay the inspection fee due

1 ~~thereon~~. If the affidavit is not filed and the inspection fee is not paid  
2 within the ~~thirty-day~~ 30-day period, or if the report of tonnage is false,  
3 the secretary may revoke the registrations filed by such person; ~~and~~. If  
4 the affidavit is not filed and the inspection fee is not paid within the ~~thirty-~~  
5 ~~day~~ 30-day period, or any extension thereof granted by the secretary, a  
6 penalty of ~~\$5~~ \$10 per day shall be assessed against the registrant and the  
7 inspection fee and penalty shall constitute a debt and become the basis  
8 for a judgment against such person. The secretary may grant a reasonable  
9 extension of time.

10 The secretary of the department of agriculture is hereby authorized  
11 and empowered to reduce the inspection fee by adopting rules and reg-  
12 ulations under this section whenever ~~it shall determine~~ *the secretary de-*  
13 *termines* that the inspection fee is yielding more than is necessary for the  
14 purpose of administering the provisions of this act as listed below and the  
15 plant pest act; ~~and~~. The secretary is hereby authorized and empowered  
16 to increase the inspection fee by adopting rules and regulations under  
17 this section when it finds that such is necessary to produce sufficient  
18 revenues for the purposes of administering the provisions of this act, ~~but~~  
19 *except that the inspection fee shall not be increased* in excess of the max-  
20 imum fee prescribed by this section. The secretary shall remit all moneys  
21 received by or for the secretary under article 12 of chapter 2 of Kansas  
22 Statutes Annotated, and amendments thereto, to the state treasurer in  
23 accordance with the provisions of K.S.A. 75-4215, and amendments  
24 thereto. Upon receipt of each such remittance, the state treasurer shall  
25 deposit the entire amount in the state treasury and shall credit such re-  
26 mittance as follows: (1) An amount equal to \$1.40 per ton shall be credited  
27 to the state water plan fund created by K.S.A. 82a-951, and amendments  
28 thereto; (2) an amount equal to \$.04 per ton shall be credited to the  
29 fertilizer research fund; ~~and~~ (3) *an amount equal to \$.05 per ton shall be*  
30 *credited to the fertilizer and pesticide compliance and administration*  
31 *fund; and (4) the remainder shall be credited to the fertilizer fee fund.*  
32 ~~On and after July 1, 2000, through June 30, 2002, an amount not to exceed~~  
33 ~~\$35,000 per year may be used to fund plant pest activities.~~ All expendi-  
34 tures from the fertilizer fee fund shall be made in accordance with ap-  
35 propriation acts upon warrants of the director of accounts and reports  
36 issued pursuant to vouchers approved by the secretary of the department  
37 of agriculture or by a person or persons designated by the secretary.

38 Sec. 2. K.S.A. 2-2204 is hereby amended to read as follows: 2-2204.  
39 (a) Every agricultural chemical which is distributed, sold or offered for  
40 sale within this state or delivered for transportation or transported in  
41 intrastate commerce or between points within this state through any point  
42 outside this state shall be registered in the office of the secretary. All  
43 registration of products shall expire on December 31 following the date

1 of issuance, unless such registration shall be renewed annually, in which  
2 event expiration date shall be extended for each year of renewal registra-  
3 tion, or until otherwise terminated. Products which have the same for-  
4 mula, and are manufactured by the same person, the labeling of which  
5 contains the same claims, and the labels of which bear a designation  
6 identifying the product as the same agricultural chemical may be regis-  
7 tered as a single product and additional names and labels shall be added  
8 by supplement statements during the current period of registration.  
9 Within the discretion of the secretary, or an authorized representative of  
10 the secretary, a change in the labeling or formulas of an agricultural chem-  
11 ical may be made within the current period of registration without re-  
12 quiring a reregistration of the product. Any agricultural chemical im-  
13 ported into this state which is subject to the provisions of any federal act  
14 providing for the registration and which has been duly registered under  
15 the provisions of such federal act, in the discretion of the secretary, may  
16 be exempted from registration under this act when such agricultural  
17 chemical is sold or distributed in the unbroken immediate container in  
18 which such agricultural chemical was originally shipped.

19 (b) The registrant shall file with the secretary, a statement including:  
20 (1) The name and address of the registrant and the name and address of  
21 the person whose name will appear on the label if other than the regis-  
22 trant; (2) the name of the agricultural chemical; (3) a complete copy of  
23 the labeling accompanying the agricultural chemical and a statement of  
24 all claims made and to be made for it and a statement of directions for  
25 use; and (4) if requested by the secretary, or an authorized representative  
26 of the secretary, a full description of the tests made and the results thereof  
27 upon which the claims are based. In the case of renewal of registration,  
28 a statement shall be required only with respect to information which is  
29 different from that furnished when the product was registered or last  
30 reregistered.

31 (c) The registrant shall pay an annual fee fixed by rules and regula-  
32 tions adopted by the ~~state board~~ *secretary* of agriculture, except that such  
33 fee shall not exceed ~~\$130~~ *\$150* for each agricultural chemical registered.  
34 Such fee shall be deposited in the state treasury and credited as follows:  
35 (1) An amount equal to \$100 for each fee so deposited shall be credited  
36 to the state water plan fund created by K.S.A. 82a-951, *and amendments*  
37 *thereto*; and (2) the remainder shall be credited to the agricultural chem-  
38 ical fee fund to be used for carrying out the provisions of this act. The  
39 annual fee for each agricultural chemical registered which is in effect on  
40 the day preceding the effective date of this act shall continue in effect  
41 until the ~~state board~~ *secretary* of agriculture adopts rules and regulations  
42 fixing a different fee therefor under this subsection. The ~~state board~~ *sec-*  
43 *retary* of agriculture is hereby authorized and empowered, whenever it

1 determines that the fee imposed by this subsection and paid into the state  
2 treasury as provided by law is yielding more revenue than is required for  
3 the purposes to which such fee is devoted by law, to reduce the fee  
4 imposed by this subsection for such period as the ~~board~~ *secretary* shall  
5 deem justified by adopting rules and regulations under this subsection  
6 but not for less than one year. In the event that the ~~board~~ *secretary*, after  
7 reducing such fee, finds that sufficient revenues are not being produced  
8 by such reduced fee, the ~~board~~ *secretary* is authorized and empowered  
9 by adopting rules and regulations under this subsection, to restore in full  
10 or in part such fee to an amount which, in the judgment of the ~~board~~  
11 *secretary*, will produce sufficient revenues for the purposes as provided  
12 in this section, but not exceeding the maximum amount of the fee im-  
13 posed by this subsection.

14 (d) The secretary, or an authorized representative of the secretary,  
15 whenever it is deemed essential in the administration of this act, may  
16 require the submission of the complete formula of any agricultural chem-  
17 ical. If it appears to the secretary, or an authorized representative of the  
18 secretary, that the composition of the product is such as to warrant the  
19 proposed claims for the product and if the product and its labeling and  
20 other material required to be submitted comply with the requirements  
21 of this act, the secretary shall register the product.

22 (e) If it does not appear to the secretary, or an authorized represen-  
23 tative of the secretary, that the product is such as to warrant the proposed  
24 claims for it or if the product and its labeling and other material required  
25 to be submitted do not comply with the provisions of this act, the secretary  
26 shall notify the registrant of the manner in which the product, labeling,  
27 or other material required to be submitted fail to comply with the act so  
28 as to afford the registrant an opportunity to make the necessary  
29 corrections.

30 (f) In order to protect the public, the secretary, or a duly authorized  
31 representative of the secretary, on the secretary's own motion, may at any  
32 time, after written notice to the registrant, cancel the registration of an  
33 agricultural chemical. Any person so notified shall be given an opportunity  
34 for a hearing in accordance with the provisions of the Kansas administra-  
35 tive procedure act with regard to the secretary's contemplated action,  
36 before any registration is canceled or revoked.

37 (g) Notwithstanding any other provisions of this act, registration is  
38 not required in the case of an agricultural chemical shipped from one  
39 plant within this state to another plant within this state operated by the  
40 same person.

41 Sec. 3. K.S.A. 2-2440 is hereby amended to read as follows: 2-2440.

42 (a) Subject to the provisions of subsection (d), it is unlawful for any pes-  
43 ticide business which has not been issued a pesticide business license to:

1 (1) Advertise, offer for sale, sell or perform any service for the control  
2 of a pest on the property of another or apply a pesticide to the property  
3 of another within this state; or

4 (2) perform any service for the control of a pest or apply any pesticide  
5 on or at the premises of another person under any commission, division  
6 of receipts or subcontracting arrangement with a licensed pesticide  
7 business.

8 Nothing in this subsection shall be construed to require the licensing  
9 of any person applying restricted use pesticides to the property of another  
10 as a certified private applicator or under the supervision of a certified  
11 private applicator.

12 (b) Application for a pesticide business license or renewal shall be  
13 made in writing to the secretary on a designated form obtained from the  
14 secretary's office and shall be accompanied by an application fee per  
15 category in which the licensee applies, and an additional fee for each  
16 uncertified individual employed by the applicant to apply pesticides. On  
17 and after ~~the effective date of this act through June 30, 1999~~ *July 1, 2002*,  
18 the application fee per category shall be ~~\$112~~ *\$140* per category in which  
19 the licensee applies. ~~On and after July 1, 1999, the application fee per~~  
20 ~~category shall be \$100 per category in which the license applies.~~ An ad-  
21 ditional fee of ~~\$10~~ *\$15* shall be paid for each uncertified individual em-  
22 ployed by the applicant to apply pesticides. The application fee per cat-  
23 egory and the additional fee for each uncertified employee in effect on  
24 the day preceding the effective date of this act shall continue in effect  
25 until the ~~state board~~ *secretary* of agriculture adopts rules and regulations  
26 fixing a different fee ~~therefor~~ under this subsection. Any uncertified in-  
27 dividual employed for a period of more than 10 days in a 30-day period  
28 or for five consecutive days by a licensee to apply pesticides subsequent  
29 to such application shall be reported to the secretary within 30 days of  
30 such employee's hiring and the fee shall be paid at that time. Each ap-  
31 plication shall also include the following:

32 (1) The business name of the person applying for such license or  
33 renewal;

34 (2) if the applicant is an individual, receiver, trustee, representative,  
35 agent, firm, partnership, association, corporation or other organized  
36 group of persons, whether or not incorporated, the full name of each  
37 owner of the firm or partnership or the names of the officers of the  
38 association, corporation or group;

39 (3) the principal business address of the applicant in the state and  
40 elsewhere; and

41 (4) any other information the secretary, by rules and regulations,  
42 deems necessary for the administration of this act.

43 (c) The secretary may issue a pesticide business license to apply pes-

1 ticides in categories for which an applicant has applied if the applicant  
2 files the bond, insurance, letter of credit or proof of an escrow account  
3 as required under K.S.A. 2-2448, and amendments thereto, satisfies the  
4 requirements of subsection (b), and pays the required fees. Such license  
5 shall expire at the end of the calendar year for which it is issued unless it  
6 has been revoked or suspended prior thereto. If a license is not issued as  
7 applied for, the secretary shall inform the applicant in writing of the  
8 reasons therefor.

9 (d) The following persons shall be exempted from the licensing  
10 requirements of this act:

11 (1) State or federal personnel using pesticides or pest control services  
12 while engaged in pesticide use research;

13 (2) veterinarians or physicians using pesticides as a part of their pro-  
14 fessional services; and

15 (3) any person or such person's employee who applies pesticides on  
16 or at premises owned, leased or operated by such person.

17 (e) Subject to the provisions of subsection (d), it is unlawful for any  
18 governmental agency which has not been issued a government agency  
19 registration to apply pesticides within this state. Application for govern-  
20 ment agency registration shall be made in writing to the secretary on a  
21 designated form obtained from the secretary's office and shall be accom-  
22 panied by a fee fixed by rules and regulations adopted by the ~~state board~~  
23 *secretary* of agriculture, except that such fee shall not exceed ~~\$35~~ \$50.  
24 The governmental agency registration fee in effect on the day preceding  
25 the effective date of this act shall continue in effect until the ~~state board~~  
26 *secretary* of agriculture adopts rules and regulations fixing a different fee  
27 therefor under this subsection. No fee shall be required of any township  
28 located within a county which has previously applied for and received  
29 government agency registration. Each application for registration shall  
30 contain information including, but not limited to:

31 (1) The name of the government agency;

32 (2) the mailing address of the applicant;

33 (3) the name and mailing address of the person who heads such  
34 agency and who is authorized to receive correspondence and legal papers.  
35 Such person shall be: (A) The mayor or city manager for municipalities;;  
36 (B) the chairperson of the board of county commissioners for counties;;  
37 (C) the township trustee for townships; or (D) any person designated by  
38 any other governmental agency; and

39 (4) any other information the secretary, by rules and regulations,  
40 deems necessary for the administration of this act.

41 (f) If the secretary finds the application to be sufficient, the secretary  
42 shall issue a government agency registration. The government agency is  
43 not required to furnish a surety bond under this act. Such government

1 agency registration shall expire at the end of the calendar year for which  
2 it is issued unless it has been revoked or suspended prior thereto. If a  
3 registration is not issued as applied for, the secretary shall inform the  
4 applicant in writing of the reasons therefor.

5 (g) A pesticide business license or government agency registration  
6 may be renewed by meeting the same requirements as for a new license  
7 or registration. Neither the pesticide business license nor the government  
8 agency registration shall be transferable, except that, in the event of the  
9 disability, incapacity or death of the owner, manager or legal agent of a  
10 pesticide business licensee, a permit may be issued by the secretary to  
11 permit the operation of such business until the expiration period of the  
12 license in effect at the time of such disability, incapacity or death if the  
13 applicant therefor can show that the policies and services of such business  
14 will continue substantially as before, with due regard to protection of the  
15 public and the environment.

16 (h) No pesticide business license may be issued to any person until  
17 such person is or has in such person's employ one or more individuals  
18 who are certified commercial applicators in each of the categories for  
19 which the license application is made.

20 Sec. 4. K.S.A. 2-2440b is hereby amended to read as follows: 2-  
21 2440b. (a) It shall be unlawful for any pesticide business licensee to apply  
22 pesticides for the control of wood destroying pests, structural pests, or-  
23 namental pests or turf pests unless the applicator of the pesticide is a  
24 certified commercial applicator or is a registered pest control technician,  
25 except that an uncertified commercial applicator may apply pesticides  
26 when either a certified applicator or registered pest control technician is  
27 physically present.

28 (b) Any such employee applying for a pest control technician regis-  
29 tration shall file an application on a form prescribed by the secretary.  
30 Application for such registration shall be accompanied by an application  
31 fee established by rules and regulations adopted by the ~~board~~ *secretary*,  
32 except that such fee shall not exceed ~~\$25~~ *\$40* and shall be reduced ~~(but~~  
33 ~~not below zero)~~, by an amount equal to the additional fee paid under  
34 subsection (b) of K.S.A. 2-2440 and amendments thereto for such un-  
35 certified individual.

36 (c) If the secretary finds the applicant qualified to be a registered  
37 pest control technician after meeting the training requirements deter-  
38 mined by the secretary in rules and regulations, the secretary shall issue  
39 a pest control technician registration which will expire at the end of the  
40 calendar year.

41 (d) This section shall be part of and supplemental to the Kansas pes-  
42 ticide law.

43 Sec. 5. K.S.A. 2-2441a is hereby amended to read as follows: 2-

1 2441a. No individual except the following shall use any restricted use  
2 pesticide without a commercial applicator's certificate issued by the sec-  
3 retary: (a) Individuals applying restricted use pesticides under a private  
4 applicator certification;

5 (b) employees of a pesticide business licensee using only nonaerial  
6 methods of applying pesticides and who work only under the supervision  
7 of a certified commercial applicator; ~~and~~. The secretary may authorize  
8 any certified aerial applicator to apply restricted use pesticides in a cat-  
9 egory other than one in which such applicator is certified under the su-  
10 pervision of an applicator certified in the category in which the pesticide  
11 is being applied during an emergency situation declared by the secretary  
12 with the consent of the governor;

13 (c) veterinarians or physicians using pesticides as a part of their pro-  
14 fessional services;

15 (d) qualified laboratory personnel employed by recognized pesticide  
16 research facilities, using pesticides or pest control services while engaged  
17 in pesticide use research; and

18 (e) federal employees using pesticides as a part of their employment  
19 by a federal agency which has its own certification program which is the  
20 full equivalent of the requirements of this state.

21 Such a commercial applicator's certificate shall be required in addition  
22 to any other license or permit required by law for the operation or use  
23 of pesticide application equipment. Any person applying for such com-  
24 mercial applicator's certificate shall file an application on a form pre-  
25 scribed by the secretary. Application for a certificate to apply pesticides  
26 shall be accompanied by an application fee per category in which the  
27 applicant applies which fee is fixed by rules and regulations adopted by  
28 the ~~state board~~ *secretary* of agriculture, except that such fee shall not  
29 exceed ~~\$35~~ \$50 per category in which the applicant applies. The com-  
30 mercial applicator's certificate fee in effect on the day preceding the ef-  
31 fective date of this act shall continue in effect until the ~~state board~~ *sec-*  
32 *retary* of agriculture adopts rules and regulations fixing a different fee  
33 therefor under this section. If the secretary finds the applicant qualified  
34 to apply pesticides in the categories the applicant has applied for after  
35 examinations on the same basis as provided for in K.S.A. 2-2443a and  
36 amendments thereto, the secretary shall issue a commercial applicator's  
37 certificate limited to the categories for which the applicant is qualified,  
38 which certificate shall expire at the end of the second calendar year after  
39 the year of issue. If a certificate is not issued as applied for, the secretary  
40 shall inform the applicant in writing of the reasons for such denial.

41 Sec. 6. K.S.A. 2-2443a is hereby amended to read as follows: 2-  
42 2443a. An applicant for a commercial applicator's certificate shall show  
43 upon written examination that the applicant possesses adequate knowl-



1 edge concerning the proper use and application of pesticides in the cat-  
2 egories for which the applicant has applied. Upon the recommendation  
3 of the secretary, a commercial applicator who holds a current certificate  
4 to apply pesticides commercially in any other state or political subdivision  
5 of the United States may be exempted from examination for certification  
6 in this state upon payment of proper fees, ~~which~~. *Such fees* shall not be  
7 less than any comparable fees charged by the commercial applicator's  
8 state to Kansas certificate holders, if such state or political subdivision's  
9 requirements for certification were the full equivalent of the require-  
10 ments of this state at the time it was issued and if the proper authorities  
11 of the state from which the applicant holds such commercial applicator's  
12 certificate, or its equivalent, agree to accept on an equal basis holders of  
13 certificates issued by the authorities of this state.

14 Applicants shall submit with each application an examination fee per  
15 category in which the applicant is to be examined which fee is fixed by  
16 rules and regulations adopted by the ~~state board~~ *secretary* of agriculture,  
17 except that such fee shall not exceed ~~\$25~~ \$35 per category in which the  
18 applicant is to be examined. The examination fee in effect on the day  
19 preceding the effective date of this act shall continue in effect until the  
20 ~~state board~~ *secretary* of agriculture adopts rules and regulations fixing a  
21 different fee therefor under this section. Applicants who fail to pass the  
22 examination may reapply and take another examination upon paying an-  
23 other examination fee per category in which the applicant is to be reex-  
24 amined which fee is fixed by rules and regulations adopted by the ~~state~~  
25 ~~board~~ *secretary* of agriculture, except that such fee shall not exceed ~~\$25~~  
26 \$35 per category in which the applicant is to be reexamined. The reex-  
27 amination fee in effect on the day preceding the effective date of this act  
28 shall continue in effect until the ~~state board~~ *secretary* of agriculture  
29 adopts rules and regulations fixing a different fee therefor under this  
30 section. The examination shall include, but is not limited to, the following:

- 31 (a) The proper use of the equipment.  
32 (b) The hazards that may be involved in applying the pesticides,  
33 including:  
34 (1) The effect of drift of the pesticides on adjacent and nearby lands  
35 and other non-target organisms;  
36 (2) the proper meteorological conditions for the application of pes-  
37 ticides and the precautions to be taken ~~therewith~~ *with such application*;  
38 (3) the effect of the pesticides on plants or animals in the area, in-  
39 cluding the possibility of damage to plants or animals or the possibility of  
40 illegal pesticide residues resulting on them;  
41 (4) the effect of the application of pesticides to wildlife in the area,  
42 including aquatic life;  
43 (5) the identity and classification of pesticides used and the effects of

1 their application in particular circumstances; and

2 (6) the likelihood of contamination of water or injury to persons,  
3 plants, livestock, pollinating insects and vegetation.

4 (c) Calculating the concentration of pesticides to be used.

5 (d) Identification of common pests to be controlled and damages  
6 caused by such pests.

7 (e) Protective clothing and respiratory equipment for handling and  
8 application of pesticides.

9 (f) General precautions to be followed in the disposal of containers  
10 as well as the cleaning and decontamination of the equipment which the  
11 applicant proposes to use.

12 (g) Applicable state and federal pesticide laws and regulations.

13 (h) Any other subject which the secretary deems necessary.

14 Sec. 7. K.S.A. 2-2445a is hereby amended to read as follows: 2-  
15 2445a. In lieu of obtaining a commercial applicator's certificate under the  
16 provisions of K.S.A. 2-2441a and amendments thereto, a private appli-  
17 cator's certificate may be applied for by and issued to individuals using  
18 restricted use pesticides for the purpose of: (a) Producing any agricultural  
19 commodity, ~~(1)~~ on property owned or rented by the individual or such  
20 individual's employer, or ~~(2)~~ on the property of another for no compen-  
21 sation other than the trading of personal services between producers; or  
22 (b) controlling ornamental shrubbery or turf pests on property owned or  
23 rented by the individual and such property is used as the individual's  
24 residence. Such certificates shall expire on the anniversary of the individ-  
25 ual's date of birth occurring in the fifth calendar year following the year  
26 of issue. ~~The extension of the certification period from three to five years~~  
27 ~~shall apply to all individuals having a valid private applicator's certificate~~  
28 ~~on June 30, 1981.~~ No certification shall be required hereunder for indi-  
29 viduals operating under the supervision of a certified private applicator.

30 Certified private applicator certificates may be issued to individuals  
31 who have paid: ~~(a)~~ A fee fixed by rules and regulations adopted by the  
32 ~~state board~~ secretary of agriculture, except that such fee shall not exceed  
33 ~~\$10, \$25;~~ and ~~(b)~~ who have acquired practical knowledge of pest prob-  
34 lems, proper storage, use, handling and disposal of pesticides and pesti-  
35 cide containers, pertinent information found on the pesticide labels, pes-  
36 ticide use safety and environmental considerations, either through Kansas  
37 state university extension service educational training or through individ-  
38 ual study of educational materials available at county extension offices or  
39 the ~~state board~~ secretary of agriculture. The certified private applicator  
40 certificate fee in effect on the day preceding the effective date of this act  
41 shall continue in effect until the ~~state board~~ secretary of agriculture  
42 adopts rules and regulations fixing a different fee therefor under this  
43 section. Individuals shall indicate adequate knowledge of the subjects

1 enumerated herein by passing an open-book examination approved by  
2 the secretary.

3 Educational materials and examination blanks shall be made available  
4 at county extension offices and at places where extension educational  
5 training is conducted. The examinations shall be scored by members of  
6 the extension or secretary's staff. If an individual passes the examination  
7 by equaling or exceeding a standard authorized by the secretary, a cer-  
8 tified private applicator's certificate shall be issued to such individual.  
9 Such staff member shall send a copy of the certificate issued, together  
10 with the fee, to the secretary.

11 Upon the recommendation of the secretary, a certified applicator who  
12 holds a current certificate to apply pesticides as a certified private appli-  
13 cator in any other state or political subdivision of the United States may  
14 be exempted from examination for private applicator certification in this  
15 state upon payment of proper fees, ~~which~~. *Such fees* shall not be less than  
16 any comparable fees charged by the certified private applicator's state to  
17 Kansas certificate holders, if such state or political subdivision's require-  
18 ments for certification were the full equivalent of the requirements of  
19 this state at the time it was issued and if the proper authorities of the  
20 state from which the applicant holds such certified private applicator's  
21 certificate, or its equivalent, agree to accept on an equal basis holders of  
22 certificates issued by the authorities of this state.

23 Sec. 8. K.S.A. 2-2805 is hereby amended to read as follows: 2-2805.  
24 Each soil amendment product shall be registered with the secretary be-  
25 fore it is distributed in this state. Application for registration shall be  
26 submitted to the secretary, on a form prepared for that purpose, showing  
27 the information required on the label, as provided in K.S.A. 2-2804, *and*  
28 *amendments thereto*, except net weight of product. The registration fee  
29 shall be fixed by rules and regulations adopted by the ~~state board~~ *secretary*  
30 of agriculture for each product, except that such fee shall not exceed ~~\$50~~  
31 *\$60* for each product. The soil amendment product registration fee in  
32 effect on the day preceding the effective date of this act shall continue  
33 in effect until the ~~state board~~ *secretary* of agriculture adopts rules and  
34 regulations fixing a different fee therefor under this section. All registra-  
35 tions shall expire on December 31 of the year in which such soil amend-  
36 ment product is registered. The applicant shall submit with the applica-  
37 tion for registration a copy of the label and a copy of all advertisements,  
38 brochures, posters and television and radio announcements to be used in  
39 promoting the sale of the soil amendment.

40 Sec. 9. K.S.A. 2-2806 is hereby amended to read as follows: 2-2806.  
41 (a) The registrant shall pay to the secretary an inspection fee of ~~twenty~~  
42 ~~cents (20)~~ *\$.28* per ton on all products registered and sold in this state,  
43 except that, in the case of manipulated animal manures, such fee shall

1 only be assessed on the tonnage of ingredients added to the otherwise  
2 unmanipulated animal manures. Each registrant shall keep adequate re-  
3 cords of ~~his or her~~ *such registrant's* sales, and shall file with the secretary,  
4 on a semiannual basis, a signed report of the tonnage distributed by  
5 county during the preceding ~~six-month~~ *six-month* periods beginning July  
6 first to and including December ~~thirty-first~~ *31st* and January first to and  
7 including June ~~thirtieth~~ *30th*. The report and payment of the inspection  
8 fee shall be due within ~~thirty~~ *30* days from the date of the close of each  
9 period.

10 (b) If the report is not filed, if the report is false in any respect or if  
11 the inspection fee is not paid within the ~~thirty-day~~ *30-day* period, the  
12 secretary may revoke the registration. A penalty of ~~one dollar (\$1)~~ *\$10*  
13 per day is assessed for each day the payment is overdue until paid. The  
14 inspection fee and the penalty shall constitute a debt and become the  
15 basis for a judgment against the registrant which may be collected by the  
16 secretary in any court of competent jurisdiction without prior demand.

17 (c) The secretary is hereby authorized to reduce the inspection fee  
18 provided for in subsection (a) whenever ~~he or she shall determine the~~  
19 *secretary determines* that such inspection fee is yielding more than is  
20 necessary for the purpose of administering the provisions of this act. The  
21 secretary is authorized and empowered to increase such inspection fee,  
22 or restore ~~it~~ *such inspection fee*, in full or in part, when ~~it~~ *such inspection*  
23 *fee* is necessary to produce sufficient revenues for the purposes of ad-  
24 ministering this act but not in excess of the ~~fee herein before stated~~  
25 *provisions of this section*.

26 Sec. 10. K.S.A. 2-2905 is hereby amended to read as follows: 2-2905.  
27 Every manufacturer of liming materials to be distributed in this state shall  
28 on July 1 of each year, or prior to manufacture or distribution of such  
29 liming materials, register each manufacturing facility on a form furnished  
30 by the secretary of ~~the state board of~~ agriculture, the application to be  
31 accompanied by a fee of ~~twenty-five dollars (\$25)~~ *\$30*. All such licenses  
32 shall expire on June 30 of the following year.

33 Sec. 11. K.S.A. 2-2906 is hereby amended to read as follows: 2-2906.  
34 (a) Within ~~thirty (30)~~ *30* days following expiration of registration, each  
35 registrant shall submit, on a form furnished by the secretary of the state  
36 board of agriculture, an annual statement setting forth the number of net  
37 tons of each agricultural liming material sold by such registrant for use  
38 within the state during the previous ~~twelve-month~~ *12-month* period. Such  
39 statement shall be accompanied by payment of an inspection fee which  
40 shall be at the rate of ~~five cents (5¢)~~ *\$.07* per ton.

41 (b) The secretary is hereby authorized and empowered to reduce the  
42 inspection fee provided for in subsection (a) whenever ~~it is determined~~  
43 *the secretary determines* that such fee is yielding more than is necessary

1 for the purpose of administering the provisions of this act. The secretary  
2 is authorized and empowered to increase such inspection fee, or restore  
3 ~~it~~ *such inspection fee*, in full or in part, when ~~it~~ *such inspection fee* is  
4 necessary to produce sufficient revenues for the purposes of administer-  
5 ing the provisions of this act, but not in excess of the fee ~~hereinbefore~~  
6 ~~stated as provided in this section.~~

7 Sec. 12. K.S.A. 2-3304 is hereby amended to read as follows: 2-3304.

8 (a) Any user of the chemigation process shall register and obtain a chem-  
9 igation user's permit before using the process.

10 (b) Registration shall consist of making application on a form supplied  
11 by the secretary. Such application shall include, but not be limited to:

12 (1) The name of the persons to whom a permit is to be issued ~~and~~  
13 *including an owner or operator of land on which chemigation is to be*  
14 *used*;

15 (2) a plan for using anti-pollution devices;

16 (3) a plan for handling tail water or accumulations of water;

17 (4) the number and locations ~~and~~ *including a legal description*, of well-  
18 heads which may be involved in the chemigation process and surface  
19 water supply withdrawal points, not to include siphon tubes; and

20 (5) payment of fees.

21 (c) ~~On and after the effective date of this act through June 30, 1999,~~

22 The application fee for a chemigation user's permit shall be ~~\$55~~ \$75 plus  
23 ~~\$10~~ \$15 for each additional point of diversion. ~~On and after July 1, 1999,~~

24 ~~the application fee for a chemigation user's permit shall be \$50 plus \$10~~  
25 ~~for each additional point of diversion.~~ A chemigation user's permit may

26 be renewed each year upon making an application, payment of the ap-  
27 plication fee and completing the report form providing information used  
28 in chemigation the previous year.

29 Sec. 13. K.S.A. 2-3306 is hereby amended to read as follows: 2-3306.

30 (a) Any individual operating chemigation equipment under a chemigation  
31 user permit shall be responsible for the safe operation of such chemiga-  
32 tion equipment and any such equipment shall be considered to be under  
33 the direct supervision of the chemigation user permit holder.

34 (b) The secretary shall not issue a chemigation user permit to any  
35 person unless such person is a certified chemigation equipment operator  
36 or has in such person's employment at least one certified chemigation  
37 equipment operator. A chemigation equipment operator is an individual  
38 who has successfully completed an examination given by the secretary or  
39 the secretary's designee. Except as provided in subsection (c), if the  
40 chemigation user permit is issued to an individual, that individual must  
41 have successfully completed the chemigation equipment operator ex-  
42 amination. Such examination shall include, but not be limited to, the  
43 following:

- 1 (1) The proper use of anti-pollution devices;
- 2 (2) preparing the chemical solution and filling the chemical supply
- 3 container;
- 4 (3) calibrating of injection equipment;
- 5 (4) supervision of chemigation equipment to assure its safe operation;
- 6 (5) environmental and human hazards that may be involved in
- 7 chemigation;
- 8 (6) protective clothing and respiratory equipment;
- 9 (7) general precautions to be followed in disposal of containers and
- 10 decontamination of the equipment;
- 11 (8) handling of tail water and other accumulations of water containing
- 12 chemicals;
- 13 (9) information of procedures to be followed should chemicals in-
- 14 advertently enter the water supply source as a result of the chemigation
- 15 process;
- 16 (10) label information, especially chemigation instructions;
- 17 (11) applicable state and federal laws and regulations; and
- 18 (12) any other subject which the secretary deems necessary.
- 19 (c) The examination provided for in subsection (b) may be waived for
- 20 any individual who has been certified as a pesticide applicator in the
- 21 category of chemigation pursuant to the Kansas pesticide law.
- 22 (d) The chemigation equipment operator certification shall expire on
- 23 December 31 of the fourth calendar year after the year of issue. A chem-
- 24 igation equipment operator certification shall be renewed for a succeed-
- 25 ing five year period upon payment of the certification fee and passing the
- 26 examination specified in either subsection (b) or (c).
- 27 (e) The fee for certification as a chemigation equipment operator or
- 28 for renewal of such certification shall be ~~\$10~~ \$25.

29 Sec. 14. K.S.A. 2-3318 is hereby amended to read as follows: 2-3318.

30 (a) Regardless of whether irrigation water is added, whenever swine waste  
31 is applied to crops or land, the secretary is authorized to investigate,  
32 inspect or conduct any manner of examination or review of the application  
33 of swine waste. No swine waste shall be applied to crops or land in excess  
34 of agronomic application rates.

35 (b) The secretary shall review and approve all nutrient utilization  
36 plans that provide for the application of swine waste to crops or land and  
37 that are submitted by swine confined feeding facilities pursuant to K.S.A.  
38 2001 Supp. 65-1,182 and amendments thereto if the plans demonstrate  
39 that swine waste will be applied pursuant to agronomic application rates  
40 *and include all required information*. Nutrient utilization plans shall be  
41 submitted ~~in the~~ *on a* form required by the secretary *and shall include*  
42 *an annual inspection fee determined by the permitted capacity in animal*  
43 *units of the facility submitting the plan required by the corresponding*

1 *waste control permit. Nutrient utilization plans for facilities of 3,725 ani-*  
2 *mal units or greater shall submit a fee of \$200 annually. Nutrient utili-*  
3 *zation plans for facilities of less than 3,725 animal units shall submit a fee*  
4 *of \$100 annually. Fees shall be due on or before March 1, each year. The*  
5 *secretary shall notify the secretary of health and environment when a*  
6 *nutrient utilization plan has been approved and whether the approval is*  
7 *conditioned on any amendments or revisions to the plan.*

8 ~~(c) Any soil tests required by the secretary to evaluate whether ag-~~  
9 ~~ronomic application rates are being met must be paid for by the swine~~  
10 ~~confined feeding facility regardless of whether the soil to be tested is~~  
11 ~~from land owned by such facility.~~

12 ~~—(d) Failure of the operator of a swine confined feeding facility to~~  
13 ~~implement a nutrient utilization plan approved by the secretary shall be~~  
14 ~~considered a violation of the Kansas chemigation safety law for which the~~  
15 ~~secretary may suspend a permit pursuant to K.S.A. 2-3310 and amend-~~  
16 ~~ments thereto or may impose a civil penalty pursuant to K.S.A. 2-3317~~  
17 ~~and amendments thereto, or both. Failure of the operator to submit the~~  
18 ~~annual fee as provided in subsection (b) in a timely manner shall be a~~  
19 ~~basis for suspension or forfeiture of the plan approval of the secretary.~~

20 ~~(e) (d) This section shall be part of and supplemental to the Kansas~~  
21 ~~chemigation safety law.~~

22 Sec. 15. K.S.A. 2001 Supp. 65-6a18 is hereby amended to read as  
23 follows: 65-6a18. As used in this act:

24 (a) “Secretary” means the secretary of the state ~~board~~ *department* of  
25 agriculture.

26 (b) “Person” means any individual, partnership, firm, corporation, as-  
27 sociation or other business unit or governmental entity.

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

33 (d) “Poultry products broker” means any person engaged in the busi-  
34 ness of buying or selling poultry products on commission, or otherwise  
35 negotiating purchases or sales of such articles other than for the person’s  
36 own account or as an employee of another person.

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

41 (f) “Intrastate commerce” means commerce within the state of  
42 Kansas.

43 (g) “Meat food product” means any product capable of use as human

1 food which is made wholly or in part from any meat or other portions of  
2 the carcasses of any livestock or domestic rabbits, excepting products  
3 which contain meat or other portions of such carcasses only in a relatively  
4 small proportion or historically have not been considered by consumers  
5 as products of the meat food industry and which are exempted from  
6 definition as a meat food product by the secretary under such conditions  
7 as the secretary may prescribe to assure that the meat or other portions  
8 of such carcasses contained in such product are not adulterated and that  
9 such products are not represented as meat food products.

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

11 (i) "Poultry product" means any poultry carcass, or part thereof or  
12 any product which is made wholly or in part from any poultry carcass or  
13 part thereof, excepting products which contain poultry ingredients only  
14 in a relatively small proportion or historically have not been considered  
15 by consumers as products of the poultry food industry and which are  
16 exempted by the secretary from definition as a poultry product under  
17 such conditions as the secretary may prescribe to assure that the poultry  
18 ingredients in such products are not adulterated and that such products  
19 are not represented as poultry products.

20 (j) "Capable of use as human food" means any carcass, or part or  
21 product of a carcass, of any animal unless it is denatured or otherwise  
22 identified as required by regulations adopted by the ~~state board~~ *secretary*  
23 of agriculture to deter its use as human food or it is naturally inedible by  
24 humans.

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

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

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

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

41 (B) if the product is, in whole or in part, a raw agricultural commodity  
42 and bears or contains a pesticide chemical which is unsafe within the  
43 meaning of rules and regulations adopted by the ~~state board~~ *secretary* of



1 agriculture;

2 (C) if the product bears or contains any food additive which is  
3 deemed unsafe in accordance with rules and regulations adopted by the  
4 ~~state board~~ *secretary* of agriculture;

5 (D) if the product bears or contains any color additive which is  
6 deemed unsafe in accordance with rules and regulations adopted by the  
7 ~~state board~~ *secretary* of agriculture; or

8 (E) any such product which is not adulterated under provisions (B),  
9 (C) or (D) shall nevertheless be deemed adulterated if the use of the  
10 pesticide chemical, the food additive or the color additive on or in such  
11 product is prohibited by rules and regulations of the ~~state board~~ *secretary*  
12 of agriculture in establishments at which inspection is maintained under  
13 this act;

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

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

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

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

25 (7) if the product has been intentionally subjected to radiation, unless  
26 the use of the radiation was in conformity with a regulation or exemption  
27 in effect pursuant to rules and regulations adopted by the ~~state board~~  
28 *secretary* of agriculture;

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

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

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

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

43 (m) "Misbranded" means any carcass, part thereof, meat or meat

1 food product, or poultry or poultry product, under any one or more of  
2 the following circumstances:

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

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

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

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

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

18 (6) if any word, statement or other information, which is required by  
19 or under authority of this act to appear on the label or other labeling for  
20 the product, is not prominently placed thereon with such conspicuousness  
21 ~~as compared with other words, statements, designs or devices in the~~  
22 ~~labeling~~, and in such terms as to render it likely to be read and under-  
23 stood by the ordinary individual under customary conditions of purchase  
24 and use;

25 (7) if the product purports to be, or is represented to be, a food for  
26 which a definition and standard of identity or composition has been pre-  
27 scribed by rules and regulations of the ~~state board~~ *secretary* of agriculture,  
28 unless (A) it conforms to such definition and standard and (B) the label  
29 thereon bears the name of the food specified in the definition and stan-  
30 dard, and insofar as may be required by such rules and regulations, the  
31 common names of optional ingredients ~~other than spices, flavoring and~~  
32 ~~coloring~~, present in such food;

33 (8) if the product purports to be, or is represented to be, a food for  
34 which a standard of fill of container has been prescribed by rules and  
35 regulations of the ~~state board~~ *secretary* of agriculture and if such product  
36 falls below the standard of fill of container applicable thereto, unless its  
37 label bears, in such manner and form as such rules and regulations specify,  
38 a statement that it falls below such standard;

39 (9) if the product is not subject to provision (7), unless its label bears  
40 (A) the common or usual name of the food, if there is any, and (B) in  
41 case it is fabricated from two or more ingredients, the common or usual  
42 name of each such ingredient, except that spices, flavorings and colorings,  
43 when authorized by the secretary, may be designated as spices, flavorings

1 and colorings without naming each; to the extent that compliance with  
2 the requirements of clause (B) of this provision is impracticable or results  
3 in deception or unfair competition, exemptions shall be established by  
4 rules and regulations adopted by the ~~state board~~ *secretary* of agriculture;

5 (10) if the product purports to be, or is represented to be, for special  
6 dietary uses, unless its label bears such information concerning its vita-  
7 min, mineral and other dietary properties as the secretary, after consul-  
8 tation with the secretary of agriculture of the United States, determines  
9 to be, and by rules and regulations adopted by the ~~state board~~ *secretary*  
10 of agriculture are prescribed to be, necessary in order to fully inform a  
11 purchaser as to its value for such uses;

12 (11) if the product bears or contains any artificial flavoring, artificial  
13 coloring or chemical preservative, unless it bears labeling stating that fact;  
14 to the extent that compliance with the requirements of this provision is  
15 impracticable, exemptions shall be established by rules and regulations  
16 adopted by the ~~state board~~ *secretary* of agriculture; or

17 (12) if the product fails to bear directly thereon, or on the product  
18 container, as the ~~state board~~ *secretary* of agriculture may prescribe by  
19 rules and regulations, the inspection legend unrestricted by any of the  
20 foregoing and such other information as the ~~state board~~ *secretary* of ag-  
21 riculture may require in such rules and regulations to assure that the  
22 product will not have any false or misleading labeling and that the public  
23 will be informed of the manner of handling required to maintain the  
24 product in a wholesome condition.

25 (n) “Label” means a display of written, printed or graphic matter  
26 upon the immediate container ~~(not including package liners)~~ of any  
27 article.

28 (o) “Labeling” means all labels and other written, printed or graphic  
29 matter (1) upon any article or any of its containers or wrappers or (2)  
30 accompanying the article.

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

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

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

40 (s) “Pesticide chemical,” “food additive,” “color additive” and “raw  
41 agricultural commodity” have the meanings for purposes of this act as  
42 ascribed thereto under K.S.A. 65-656 and amendments thereto.

43 (t) “Official mark” means the official inspection legend or any other

1 symbol prescribed by rules and regulations of the ~~state board~~ *secretary*  
2 of agriculture to identify the status of any article or animal under this act.

3 (u) “Official inspection legend” means any symbol prescribed by  
4 rules and regulations of the ~~state board~~ *secretary* of agriculture showing  
5 that an article was inspected and passed in accordance with this act.

6 (v) “Official certificate” means any certificate prescribed by rules and  
7 regulations of the ~~state board~~ *secretary* of agriculture for issuance by an  
8 inspector or other person performing official functions under this act.

9 (w) “Official device” means any device prescribed or authorized by  
10 the ~~state board~~ *secretary* of agriculture for use in applying any official  
11 mark.

12 (x) “Slaughterhouse” means any plant which carries on the slaughter  
13 and dressing of animals but which does not engage in the further proc-  
14 essing of meat into meat food products.

15 (y) “Packing plant” or “packing house” means any installation proc-  
16 essing meat into meat food products.

17 (z) “Buffalo” means the American buffalo or bison (*Bos*, *Bison bison*  
18 or *Bison americanus*).

19 (aa) “Livestock” means cattle, buffaloes, sheep, swine, goats, domes-  
20 ticated deer, all creatures of the ratite family that are not indigenous to  
21 this state, including but not limited to ostriches, emus and rheas or horses,  
22 mules or other equines.

23 (bb) “Slaughter facility” means a slaughterhouse or poultry dressing  
24 plant.

25 (cc) “Processing facility” means a packing house, sausage plant or  
26 poultry packing plant.

27 (dd) “Domesticated deer” means any member of the family cervidae  
28 which was legally obtained and is being sold or raised in a confined area  
29 for breeding stock; for any carcass, skin or part of such animal; for exhi-  
30 bition; or for companionship.

31 (ee) “Wholesaler” means any person engaged in the distribution of  
32 inspected and passed meat or meat products, poultry or poultry products  
33 between the manufacturer and retailer. Wholesalers may not sell products  
34 directly to consumers, and do not further process or repackage product.

35 (ff) “Distributor” means any person engaged in the distribution of  
36 inspected and passed meat or meat products, poultry or poultry products  
37 either between the manufacturer and retailer, or directly from manufac-  
38 turer to consumer. Distribution does not include further processing or  
39 sales for youth fund raising groups. “Distributors” may sell individually  
40 packaged product bearing complete consumer labels.

41 (gg) “Public warehouseman” means any person engaged in the busi-  
42 ness of storing for commerce any meat or meat product, poultry or poultry  
43 product without assuming ownership of the product in storage.

1 Sec. 16. K.S.A. 65-6a34 is hereby amended to read as follows: 65-  
2 6a34. (a) No person shall: (1) Engage in business, in or for intrastate  
3 commerce, as a meat broker or animal food manufacturer;; (2) engage in  
4 business in such commerce as a wholesaler *or distributor* of any carcasses,  
5 or parts or products of the carcasses, of any livestock, domestic rabbits or  
6 poultry, whether intended for human food or other purposes;~~or~~; (3) en-  
7 gage in business as a public warehouseman storing any such articles in or  
8 for such commerce;; *or (4)engage in the sale of meat and poultry products*  
9 *for youth fund raising activities* without first having registered with the  
10 secretary such person's name and the address of each place of business  
11 at which, and all trade names under which, such person conducts such  
12 business and having paid the registration fee established by this section,  
13 if applicable.

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

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

19 (1) An annual registration fee of ~~\$50~~ \$75 shall be charged for the  
20 registration of each *wholesaler, distributor, public warehouseman*, meat  
21 broker, poultry product broker, animal food manufacturer, seasonal poul-  
22 try packing or dressing plant, state-owned slaughter or processing facility  
23 operated in conjunction with education and research and located at in-  
24 stitutions under the jurisdiction of the state board of regents, or slaughter  
25 or processing facility operated in conjunction with education and research  
26 and located at a public secondary school, and each such registration shall  
27 expire on December 31 of each year.

28 (2) Except for persons who register under ~~paragraph (1) of this sub-~~  
29 ~~section (c)(1)~~, an annual registration fee of ~~\$150~~ \$225 shall be charged  
30 for the registration of each slaughter facility which slaughters 300 animal  
31 units or less annually, and such registration shall expire on December 31  
32 of each year.

33 (3) An annual registration fee of ~~\$200~~ \$300 shall be charged for the  
34 registration of each slaughter or processing facility which operates solely  
35 on a custom basis as defined by subsection (b)(1) of K.S.A. 65-6a31 and  
36 amendments thereto, and such registration shall expire on December 31  
37 of each year.

38 (4) Except for those persons who have registered under ~~paragraphs~~  
39 ~~(1), (2) or (3) of this subsection (c)(1), (2) or (3)~~, an annual registration  
40 fee of ~~\$250~~ \$375 shall be charged for each processing facility and each  
41 slaughter facility which slaughters more than 300 animal units annually,  
42 and such registration shall expire on December 31 of each year.

43 (5) As used in this subsection (c), animal units shall be computed by

1 using one unit for each bovine, bison, horse, mule or other equine, .6  
2 unit for each swine, .4 unit for each sheep or goat and as specified by  
3 rule and regulation for other animal units.

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

9 (d) Any person whose completed application for renewal of a regis-  
10 tration required by this section is not received by January 15 of the year  
11 of renewal shall be subject to a reinstatement fee which shall be paid in  
12 addition to the required registration fee. If the completed application for  
13 renewal of a registration required by this section is received by the sec-  
14 retary after January 15 and on or before January 31 of the year of renewal,  
15 the reinstatement fee shall be ~~\$10~~ \$20. If the completed application for  
16 renewal of a registration required by this section is received after January  
17 31 of the year of renewal, the amount of the reinstatement fee shall be  
18 increased at the rate of ~~\$25~~ \$50 per month for each additional month or  
19 fraction thereof. No registration required by this section shall be rein-  
20 stated if it has been delinquent for one year. No registration required by  
21 this section shall be issued until all applicable reinstatement fees, if any,  
22 have been paid.

23 Sec. 17. K.S.A. 2001 Supp. 65-771 is hereby amended to read as  
24 follows: 65-771. As used in this act:

25 (a) “Adulterated” has the same meaning as ~~ascribed to it~~ provided in  
26 K.S.A. 65-664, and amendments thereto.

27 (b) ~~“Counter freezer” means a counter type freezing machine used~~  
28 ~~to produce frozen dairy products.~~

29 ~~(c)~~ “Dairy manufacturing plants” means any place where dairy prod-  
30 ucts, grade A milk or milk products are manufactured or prepared for  
31 sale or distribution, either at wholesale or retail. This term shall not in-  
32 clude a licensed food service establishment which is licensed to manu-  
33 facture homemade ice cream pursuant to this act.

34 ~~(d)~~ (c) “Dairy products” means products which may be made from  
35 milk or cream for manufacturing purposes and which are not required to  
36 meet grade A standards, including butter, cheese, dry whole milk, nonfat  
37 dry milk, dry buttermilk, dry whey, evaporated milk ~~(, whole or skim)~~,  
38 condensed whole milk, condensed skim milk ~~(, sweetened or plain)~~, fro-  
39 zen dairy dessert, and frozen dairy dessert mixes and such other products  
40 as may be otherwise designated by rules and regulations.

41 ~~(e)~~ (d) “Frozen dairy dessert” means and includes products contain-  
42 ing milk or cream and other ingredients which are frozen or semi-frozen  
43 prior to consumption, such as ice cream, ice milk or sherbet, including

1 frozen dairy desserts for special dietary purposes.

2 ~~(f)~~ (e) “Frozen dairy dessert mix” means the pasteurized unfrozen  
3 combination of all ingredients with or without fruits, fruit juices, candy,  
4 nut meats, flavor or harmless color which makes a frozen dairy dessert.

5 ~~(g)~~ (f) “Goat milk” means the normal lacteal secretion, practically free  
6 of colostrum, obtained by the complete milking of one or more healthy  
7 goats. Goat milk sold in retail packages shall contain not less than 2.5 %  
8 milkfat and not less than 7.5 % milk solids not fat. Goat milk shall be  
9 produced according to the sanitary standards of this act.

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

20 ~~(i)~~ (h) “Grade A pasteurized milk products” means all pasteurized  
21 milk products which have at least a 90% survey rating, as determined by  
22 a survey of the source conducted by the secretary pursuant to the survey  
23 rating methods for conducting surveys of the status of milk sanitation.  
24 The pasteurized milk products shall meet the requirements for grade A  
25 under rules and regulations adopted pursuant to this act. The secretary  
26 may authorize the use of the grade A designation for a temporary time  
27 period on grade A pasteurized milk products within the statewide system  
28 of milk inspection and regulatory services, although such grade A pas-  
29 teurized milk products do not have at least a 90% survey rating.

30 ~~(j)~~ (i) “Grade A raw milk for pasteurization” means milk having at  
31 least 90% survey rating, as determined by a survey of the source con-  
32 ducted by the secretary pursuant to the survey rating methods for con-  
33 ducting surveys of the status of milk sanitation, the raw milk meeting the  
34 requirements for grade A under the rules and regulations adopted pur-  
35 suant to this act. The secretary may authorize the use of the grade A  
36 designation for a temporary time period on grade A raw milk for pas-  
37 teurization within the statewide system of milk inspection and regulatory  
38 services, although such milk does not have at least a 90% survey rating.

39 ~~(k)~~ (j) “Imminent health hazard” means any condition which involves  
40 milk, milk products, or dairy products, or any practice or procedure in  
41 the handling, transportation, storage, processing or manufacturing of a  
42 milk, milk product or dairy product which poses a significant threat of  
43 danger to the public health which should be corrected immediately to

1 prevent injury or sickness and which should not be permitted to continue  
2 while a hearing or other proceeding is being conducted. An imminent  
3 health hazard may be declared at any point in a chain of events which  
4 ultimately may result in harm or danger to the public health. The occur-  
5 rence of the final anticipated injury or other disease related condition  
6 shall not be a prerequisite for the establishment of the existence of an  
7 imminent health hazard.

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

13 ~~(l)~~ (l) “Milk” means the lacteal secretion, practically free from co-  
14 lostrum, obtained by the complete milking of one or more healthy cows.  
15 Milk that is in final package form for beverage use shall have been pas-  
16 teurized or ultrapasteurized, and shall contain not less than 8.25% milk  
17 solids not fat and not less than 3.25% milkfat. Milk may have been ad-  
18 justed 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 inter-  
21 preted to include goat milk.

22 ~~(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,  
24 or dairy product.

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

29 ~~(o)~~ (o) “Milk inspection and regulatory services” means the inspec-  
30 tion, sampling, laboratory testing and the administrative procedures re-  
31 lating thereto, necessary to determine that the production, processing,  
32 distribution and sale of grade A milk, milk products, and dairy products  
33 comply with the requirements of this act and any rules and regulations  
34 adopted hereunder.

35 ~~(p)~~ (p) “Milk or cream for manufacturing purposes” means raw milk  
36 or raw cream which is not subject to grade A standards and which is  
37 produced for processing and manufacturing into dairy products for hu-  
38 man consumption. Milk for manufacturing purposes may contain less than  
39 3.25% of butterfat and shall be delivered pure, sweet and clean.

40 ~~(q)~~ (q) “Milk or cream receiving station” means any place where milk  
41 or cream may be received, collected, handled, processed, stored or col-  
42 lected and prepared for further transporting.

43 ~~(r)~~ (r) “Milk or cream transfer station” means any place where milk



- 1 or cream are transferred directly from one milk tank truck to another.
- 2 ~~(t)~~ (s) “Milk processor” means any person who operates any place,  
3 premises or establishment where grade A raw milk for pasteurization or  
4 milk or cream for manufacturing purposes is processed, pasteurized, bot-  
5 tled or prepared for distribution.
- 6 ~~(t)~~ (t) “Milk producer” means any person who owns or operates a  
7 dairy farm and who provides, sells or offers for sale grade A raw milk for  
8 pasteurization or milk or cream for manufacturing purposes to a milk  
9 plant, receiving station or transfer station.
- 10 ~~(u)~~ (u) “Milk products” means cream, light cream, light whipping  
11 cream, heavy cream, heavy whipping cream, whipped cream, whipped  
12 light cream, sour cream, acidified sour cream, cultured sour cream, half-  
13 and-half, sour half-and-half, acidified sour half-and-half, cultured sour  
14 half-and-half, reconstituted or recombined milk and milk products, con-  
15 centrated milk, concentrated milk products, nonfat ~~(skim)~~ milk, reduced  
16 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured  
17 milk, cultured reduced fat or lowfat milk, cultured nonfat ~~(skim)~~ milk,  
18 yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat  
19 or lowfat milk, acidified nonfat ~~(skim)~~ milk, low-sodium milk, low-sodium  
20 reduced fat or lowfat milk, low-sodium nonfat ~~(skim)~~ milk, lactose-re-  
21 duced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced  
22 nonfat ~~(skim)~~ milk, aseptically processed and packaged milk and milk  
23 products, milk, reduced fat or lowfat milk or nonfat ~~(skim)~~ milk with  
24 added safe and suitable microbial organisms and any other milk product  
25 made by the addition or subtraction of milkfat or addition of safe and  
26 suitable optional ingredients for protein, vitamin or mineral fortification  
27 of milk products defined herein. Milk products also include those dairy  
28 foods made by modifying the federally standardized products listed in  
29 this section in accordance with 21 C.F.R. 130.10, requirements for foods  
30 named by use of a nutrient content claim and a standardized term. Milk  
31 and milk products which have been retort processed after packaging or  
32 which have been concentrated, condensed or dried are included in this  
33 definition only if they are used as an ingredient to produce any milk or  
34 milk product defined herein or if they are labeled as Grade A as adopted  
35 and described by rules and regulations promulgated under this act. *Except*  
36 *as otherwise provided*, the term milk shall not include dietary products  
37 ~~(except as defined herein)~~, infant formula, ice cream or other desserts,  
38 butter or cheese.
- 39 ~~(v)~~ (v) “Misbranded” has the same meaning as ascribed to it in K.S.A.  
40 65-665, and amendments thereto.
- 41 ~~(w)~~ (w) “On-farm retail sales of milk or milk products” means the sale  
42 of milk or milk products on the farm by the producer from the production  
43 of the dairy herd to the final consumer, so long as the person making

1 such sales does not promote the sale of milk or milk products to the public  
2 in any manner other than by the erection of a sign upon the premises of  
3 the dairy farm. The advertisement upon any such sign shall state that such  
4 milk or milk products are raw and shall be in letters of a uniform size.  
5 Each container in which any unpasteurized milk is sold or offered for sale  
6 shall be clearly labeled as ungraded raw milk.

7 ~~(y)~~ (x) “Pasteurized” has the same meaning as ascribed to it in 21  
8 C.F.R. 131.3 and 135.3.

9 ~~(z)~~ (y) “Person” means any individual, plant operator, partnership,  
10 corporation, company, firm, trustee, association or institution.

11 ~~(aa)~~ (z) “Plant fabricating single service articles” means any place  
12 which manufactures single service articles which are expected to come in  
13 contact with grade A milk or grade A milk products.

14 ~~(bb)~~ (aa) “Secretary” means the secretary of the state department of  
15 agriculture, or the secretary’s designee.

16 ~~(cc)~~ (bb) “Single service article or container” means any container  
17 having a milk or milk product-contact surface and used in the packaging,  
18 handling, storage or servicing of grade A milk and is intended for one  
19 usage only.

20 Sec. 18. K.S.A. 2001 Supp. 65-775 is hereby amended to read as  
21 follows: 65-775. (a) The secretary may adopt rules and regulations:

22 (1) Establishing criteria for the sanitary production, processing, han-  
23 dling, sampling, examination, testing, grading and labeling of all milk, milk  
24 products and dairy products sold or produced in the state of Kansas;

25 (2) providing criteria for the inspection of dairy farms, dairy manu-  
26 facturing plants, plants fabricating single service articles, milk or cream  
27 transfer stations, milk or cream receiving stations, milk haulers; *and* milk  
28 distributors, ~~and counter freezers~~;

29 (3) establishing sanitation standards and equipment and utensil stan-  
30 dards for dairy farms, dairy manufacturing plants, plants fabricating single  
31 service articles, transfer stations, receiving stations, milk haulers and milk  
32 distributors;

33 (4) establishing standards of identity for milk, milk products and dairy  
34 products. Such standards shall take into consideration corresponding fed-  
35 eral standards of identity where such standards exist;

36 (5) prescribing for any person regulated under this act any book-  
37 keeping or reporting requirements deemed necessary by the secretary,  
38 including the maintenance of records and making such records available  
39 to the secretary;

40 (6) regarding bacterial and coliform standards or other quality stan-  
41 dards for milk, milk products, or dairy products; and

42 (7) establishing specifications for apparatus and chemicals and pro-  
43 cedures for sampling, testing and weighing milk, cream, butter and any

1 other milk products or dairy products. These specifications, directions  
2 and other technical requirements shall conform, insofar as practical, to  
3 the official methods of analysis of the association of official analytical  
4 chemists or any other such similar organization.

5 (b) Any rules and regulations promulgated under this act shall con-  
6 form, insofar as practicable, to the pasteurized milk ordinance, and the  
7 policies adopted by the interstate milk shippers conference.

8 Sec. 19. K.S.A. 2001 Supp. 65-778 is hereby amended to read as  
9 follows: 65-778. (a) Any person who engages in business as a dairy man-  
10 ufacturing plant shall first apply for and obtain a dairy manufacturing  
11 plant license from the secretary and shall pay a license fee of ~~\$120~~ \$155.

12 (b) Any person who engages in business as a distributor of milk, milk  
13 products or dairy products shall first apply for and obtain a milk distrib-  
14 utor license from the secretary and shall pay a license fee of ~~\$120~~ \$155.  
15 No milk distributor license shall be required for a licensed dairy manu-  
16 facturing plant which distributes only those products which it  
17 manufactures.

18 (c) Any person who engages in business as a milk hauler shall first  
19 apply for and obtain a milk hauler license from the secretary and shall  
20 pay a license fee of ~~\$25~~ \$35. As part of the application, the secretary may  
21 require the applicant to be tested regarding proper procedures for sam-  
22 pling, testing and weighing milk or cream and state laws and rules and  
23 regulations.

24 ~~(d) Any person who engages in the business of freezing a frozen dairy  
25 dessert mix for sale at retail shall first apply for and obtain a counter  
26 freezer license from the secretary and shall pay a license fee of \$50.~~

27 ~~—(e) Any food service establishment which is required to be licensed  
28 pursuant to K.S.A. 36-501 et seq., and amendments thereto, and who  
29 manufactures homemade ice cream for sale on its premises shall first  
30 apply for and obtain a homemade ice cream manufacturing license from  
31 the secretary and shall pay a license fee of \$50. Homemade ice cream  
32 made pursuant to this section shall be manufactured at the licensed food  
33 service establishment and shall be sold only on the premises for imme-  
34 diate consumption by the customers of the licensed food service  
35 establishment.~~

36 (f) Any person who operates a milk or cream transfer station or milk  
37 or cream receiving station shall first apply for and obtain a milk or cream  
38 station license from the secretary and shall pay a license fee of ~~\$50~~ \$65.

39 ~~(g)~~ (e) Any person who engages in business as a manufacturer of  
40 single service dairy containers or manufacturer of single service dairy  
41 container closures shall first apply for and obtain a single service manu-  
42 facturing license from the secretary and shall pay a license fee of ~~\$50~~ \$65.

43 ~~(h)~~ (f) The dairy manufacturing plant license, milk distributor license,

1 ~~counter freezer license, homemade ice cream manufacturing license, milk~~  
2 ~~or cream station license and single service manufacturing license shall~~  
3 ~~expire on December 31 of the year for which it was issued unless sus-~~  
4 ~~suspended or revoked by the secretary pursuant to this act. The milk hauler~~  
5 ~~license shall expire on June 30 following the date of issuance unless sus-~~  
6 ~~suspended or revoked by the secretary pursuant to this act.~~

7 ~~(g)~~ (g) No license issued under this section shall be transferable. No  
8 license shall be renewed if any assessments or fees required under this  
9 act are delinquent.

10 ~~(h)~~ (h) Each applicant for a license shall submit an application on a  
11 form supplied by the secretary accompanied by the license fee. All li-  
12 censes shall be conspicuously displayed in the applicant's place of  
13 business.

14 Sec. 20. K.S.A. 2001 Supp. 65-781 is hereby amended to read as  
15 follows: 65-781. The following fees for the statewide system of milk in-  
16 spection and regulatory services are hereby established:

17 (a) A fee of ~~\$.01~~ \$.015 for each 100 pounds of milk produced by milk  
18 producers under Kansas grade A inspection shall be paid. Each producer  
19 is hereby charged with such fee which shall be paid to the milk producers'  
20 cooperative, milk processor or milk distributor to whom the milk is sold  
21 or delivered. Each cooperative, processor or distributor is hereby charged  
22 with the duty of collecting such fees which shall be remitted to the  
23 secretary.

24 (b) A fee of ~~\$.01~~ \$.015 for each 100 pounds of packaged grade A  
25 pasteurized milk or milk products sold in Kansas at retail to the final  
26 consumer shall be paid. Each distributor is hereby charged with such fee  
27 which shall be remitted to the secretary.

28 (c) A fee of ~~\$.01~~ \$.015 per 100 pounds or fraction thereof of grade  
29 A raw milk for pasteurization delivered to a milk processor within the  
30 state of Kansas which is processed into grade A milk or grade A milk  
31 products shall be paid. Each milk processor is hereby charged with such  
32 fee which shall be remitted to the secretary.

33 (d) A milk fee of ~~\$.01~~ \$.015 per 100 pounds of milk or cream for  
34 manufacturing purposes produced by milk producers under Kansas man-  
35 ufacturing grade milk inspection shall be paid. Each producer is hereby  
36 charged with such fee which shall be paid to the milk producers' coop-  
37 erative, dairy manufacturing plant or any other person to whom the milk  
38 or cream for manufacturing purposes is sold or delivered. Each cooper-  
39 ative, dairy manufacturing plant or other person is hereby charged with  
40 the duty of collecting such fees which shall be remitted to the secretary.

41 (e) A fee of ~~\$.0075~~ \$.01 per 100 pounds of Kansas produced milk or  
42 cream for manufacturing purposes or other Kansas produced milk deliv-  
43 ered to a dairy manufacturing plant shall be paid on all Kansas milk used

1 in the manufacturing of dairy products. As used in this subsection, the  
2 term dairy products shall not include any frozen dairy dessert or frozen  
3 dairy dessert mix. Each dairy manufacturing plant shall pay such fee  
4 which shall be remitted to the secretary.

5 (f) In lieu of the fee prescribed in subsection (e), a fee of ~~\$1~~ \$1.50  
6 per thousand gallons of frozen dairy dessert or frozen dairy dessert mix  
7 shall be paid by the manufacturer thereof. Each manufacturer of frozen  
8 dairy dessert or frozen dairy dessert mix is hereby charged with such fee  
9 which shall be remitted to the secretary. Frozen dairy dessert mix which  
10 is further processed into the corresponding frozen dairy dessert by the  
11 manufacturer of the frozen dairy dessert mix shall not be subject to the  
12 fee required by this subsection.

13 (g) A fee of ~~\$1~~ \$1.50 per thousand gallons of frozen dairy dessert or  
14 frozen dairy dessert mix imported for retail sale in Kansas shall be paid  
15 by the milk distributor who imports these products.

16 (h) If any fee computed pursuant to subsection (a) through (e) is less  
17 than \$2.50, then the sum of \$2.50 shall be paid in lieu of the computed  
18 fee. If any fee computed pursuant to subsection (f) or (g) is less than  
19 \$7.50, a minimum fee of \$7.50 shall be paid in lieu of the computed fee.

20 (i) All fees established herein shall be paid to the secretary in the  
21 following manner:

22 (1) The fees established in subsections (a) through (e) shall be re-  
23 mitted on or before the 30th day of each month for the calendar month  
24 immediately preceding and shall be accompanied by a report, in the form  
25 prescribed by the secretary, indicating the quantities upon which the re-  
26 mittance is based.

27 (2) The fees established in subsections (f) and (g) shall be remitted  
28 on April 30, July 31, October 31 and January 31 for the three calendar  
29 months immediately preceding and shall be accompanied by a report, in  
30 the form prescribed by the secretary, indicating the quantity of frozen  
31 dairy dessert or frozen dairy dessert mix upon which the remittance is  
32 based.

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

37 Sec. 21. K.S.A. 2001 Supp. 65-782 is hereby amended to read as  
38 follows: 65-782. (a) The secretary shall remit all moneys received under  
39 this act to the state treasurer at least monthly. Upon receipt of such  
40 remittance, the state treasurer shall deposit the entire amount thereof in  
41 the state treasury and the same shall be credited to the dairy fee fund,  
42 which is hereby created, unless otherwise stated.

43 (b) All expenditures from the dairy fee fund shall be made in accord-

1 ance with appropriation acts upon warrants of the director of accounts  
2 and reports issued pursuant to vouchers approved by the secretary.

3 ~~(c) On July 1, 2001, the director of accounts and reports shall transfer~~  
4 ~~all moneys in the dairy division fee fund and the grade A milk fee fund~~  
5 ~~to the dairy fee fund. On July 1, 2001, all liabilities of the dairy division~~  
6 ~~fee fund and the grade A milk fee fund are hereby transferred to and~~  
7 ~~imposed on the dairy fee fund and the dairy division fee fund and the~~  
8 ~~grade A milk fee fund are hereby abolished.~~

9 Sec. 22. K.S.A. 2001 Supp. 65-789 is hereby amended to read as  
10 follows: 65-789. It shall be unlawful for any person to:

11 (a) Engage in any business or activity which requires a license or  
12 permit under this act without having a license or permit;

13 (b) sell, offer or expose for sale:

14 (1) Any milk, milk products or dairy products which do not conform  
15 to the definition and standards of identity established under this act; *or*

16 (2) any milk, milk products or dairy products which are adulterated  
17 or misbranded; ~~or~~

18 ~~(3) any frozen dairy dessert which does not conform to the bacteria~~  
19 ~~and coliform quality standards established by this act or rules and regula-~~  
20 ~~tions adopted hereunder.~~

21 (c) adulterate or misbrand any milk, milk products or dairy products;

22 (d) sell, offer for sale or have in such person's possession with the  
23 intent to sell at retail to the final consumer any milk or milk product  
24 which has not been inspected and designated grade A pasteurized in  
25 accordance with the provisions of this act and any rules and regulations  
26 adopted thereunder, except that on-farm retail sales of milk or milk prod-  
27 ucts shall be exempt from the provisions of this act unless stated other-  
28 wise; or

29 (e) violate any provision of this act or any rules or regulations prom-  
30 ulgated thereunder.

31 Sec. 23. K.S.A. 2001 Supp. 82a-708a is hereby amended to read as  
32 follows: 82a-708a. (a) Any person may apply for a permit to appropriate  
33 water to a beneficial use, notwithstanding that the application pertains to  
34 the use of water by another, or upon or in connection with the lands of  
35 another. Any rights to the beneficial use of water perfected under such  
36 application shall attach to the lands on or in connection with which the  
37 water is used and shall remain subject to the control of the owners of the  
38 lands as in other cases provided by law.

39 (b) Except as otherwise provided in subsections (d), (e) and (f), each  
40 application for a permit to appropriate water, except applications for per-  
41 mits for domestic use, shall be accompanied by an application fee fixed  
42 by this section for the appropriate category of acre feet in accordance  
43 with the following:

Acre Feet	Fee
0 to 100 .....	<del>\$100</del> \$200
101 to 320 .....	<del>\$150</del> \$300
More than 320 .....	<del>\$150 + \$10</del> \$300 + \$20
	for each additional 100
	acre feet or any part thereof

(c) Except as otherwise provided in subsections (d), (e) and (f), each application for a permit to appropriate water for storage, except applications for permits for domestic use, shall be accompanied by an application fee fixed by this section for the appropriate category of storage-acre feet in accordance with the following:

Storage-Acre Feet	Fee
0 to 250 .....	<del>\$100</del> \$200
More than 250 .....	<del>\$100 + \$10</del> \$200 + \$20
	for each additional 250
	storage-acre feet or any part thereof

(d) Each application for a term permit pursuant to K.S.A. 2001 Supp. 82a-736, and amendments thereto, shall be accompanied by an application fee established by rules and regulations of the chief engineer in an amount not to exceed \$400 for the five-year period covered by the permit.

(e) For any application for a permit to appropriate water, except applications for permits for domestic use, which proposes to appropriate by both direct flow and storage, the fee charged shall be the fee under subsection (b) or subsection (c), whichever is larger, but not both fees.

(f) Each application for a permit to appropriate water for water power or dewatering purposes shall be accompanied by an application fee of \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the diversion rate requested in the application for the proposed project.

(g) All fees collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and amendments thereto.

Sec. 24. K.S.A. 2001 Supp. 82a-708b is hereby amended to read as follows: 82a-708b. (a) Any owner of a water right may change the place of use, the point of diversion or the use made of the water, without losing priority of right, provided such owner shall: (1) Apply in writing to the chief engineer for approval of any proposed change; (2) demonstrate to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrate to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receive the approval of the chief engineer with respect to any proposed change. The chief engineer shall approve or reject the application for change in accordance with the provisions and procedures prescribed for processing original applications for permission

1 to appropriate water. If the chief engineer disapproves the application for  
2 change, the rights, priorities and duties of the applicant shall remain un-  
3 changed. Any person aggrieved by an order or decision by the chief en-  
4 gineer relating to an application for change may petition for review  
5 thereof in accordance with the provisions of K.S.A. 2001 Supp. 82a-1901  
6 and amendments thereto.

7 (b) Each application to change the place of use, the point of diversion  
8 or the use made of the water under this section shall be accompanied by  
9 the application fee set forth in the schedule below:

10	(1) Application to change a point of diversion 300 feet or less .....	<del>\$50</del> \$100
11	(2) Application to change a point of diversion more than 300 feet..	<del>100</del> 200
12	(3) Application to change the place of use.....	<del>100</del> 200
13	(4) Application to change the use made of the water .....	<del>150</del> 300
14	(5) <i>Application to change ownership</i> .....	100

15 Any application submitted which requests two of the types of changes set  
16 forth above shall be accompanied by a fee of ~~\$150~~ \$300. Any application  
17 which requests three types of changes shall be accompanied by a fee of  
18 ~~\$250~~ \$500.

19 (c) All fees collected by the chief engineer pursuant to this section  
20 shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and  
21 amendments thereto.

22 Sec. 25. K.S.A. 2001 Supp. 82a-714 is hereby amended to read as  
23 follows: 82a-714. (a) Upon the completion of the construction of the  
24 works and the actual application of water to the proposed beneficial use  
25 within the time allowed, the applicant shall notify the chief engineer to  
26 that effect. The chief engineer or the chief engineer's duly authorized  
27 representative shall then examine and inspect the appropriation diversion  
28 works and, if it is determined that the appropriation diversion works have  
29 been completed and the appropriation right perfected in conformity with  
30 the approved application and plans, the chief engineer shall issue a cer-  
31 tificate of appropriation in duplicate. The original of such certificate shall  
32 be sent to the owner and shall be recorded with the register of deeds in  
33 the county or counties wherein the point of diversion is located, as are  
34 other instruments affecting real estate, and the duplicate shall be made  
35 a matter of record in the office of the chief engineer.

36 (b) Not later than 60 days before the expiration of the time allowed  
37 in the permit to complete the construction of the appropriation diversion  
38 works or the time allowed in the permit to actually apply water to the  
39 proposed beneficial use, the chief engineer shall notify the permit holder  
40 by certified mail that any request for extension of such time must be filed  
41 with the chief engineer before the expiration of the time allowed in the  
42 permit.

43 (c) Unless the applicant requests an extension or the certificate has



1 not been issued due to the applicant's failure to comply with reasonable  
2 requests for information or to allow the opportunity to examine and in-  
3 spect the appropriation diversion works, as necessary for certification, the  
4 chief engineer shall certify an appropriation:

5 (1) Before July 1, 2004, if the time allowed in the permit to perfect  
6 the water right expired before July 1, 1999; or

7 (2) not later than five years after the date the applicant notifies the  
8 chief engineer of the completion of construction of the works and the  
9 actual application of water to the proposed beneficial use within the time  
10 allowed, in all other cases.

11 If the chief engineer fails to issue a certificate within the time provided  
12 by this subsection, the applicant may request review, pursuant to K.S.A.  
13 2001 Supp. 82a-1901 and amendments thereto, of the chief engineer's  
14 failure to act.

15 (d) Except for works constructed to appropriate water for domestic  
16 use, each notification to the chief engineer under subsection (a) shall be  
17 accompanied by a field inspection fee of ~~\$200~~ \$400. Failure to pay the  
18 field inspection fee, after reasonable notice by the chief engineer of such  
19 failure, shall result in the permit to appropriate water being revoked,  
20 forfeiture of the priority date and revocation of any appropriation right  
21 that may exist. ~~All fees collected by the chief engineer pursuant to this~~  
22 ~~section shall be remitted to the state treasurer as provided in K.S.A. 82a-~~  
23 ~~731 and amendments thereto.~~

24 (e) A request for an extension of time to: (1) Complete the diversion  
25 works; or (2) perfect the water right, shall be accompanied by a fee of  
26 ~~\$50~~ \$100.

27 (f) A request to reinstate a water right or a permit to appropriate  
28 water which has been dismissed shall be filed with the chief engineer  
29 within 60 days of the date dismissed and shall be accompanied by a fee  
30 of ~~\$100~~ \$200.

31 (g) *All fees collected by the chief engineer pursuant to this section*  
32 *shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and*  
33 *amendments thereto.*

34 Sec. 26. K.S.A. 82a-727 is hereby amended to read as follows: 82a-  
35 727. (a) Subject to existing water rights and the principle of beneficial  
36 use, the chief engineer may grant upon application made therefor tem-  
37 porary permits and extensions thereof to appropriate water in any case  
38 where the public interest in such water will not be unreasonably or pre-  
39 judicially affected, except that the chief engineer shall not grant any such  
40 permit to appropriate fresh water in any case where other waters are  
41 available for the proposed use and the use thereof is technologically and  
42 economically feasible. No such temporary permit or any extension thereof  
43 shall be granted for a period of time in excess of six months. Each appli-

1 cation submitted for a temporary permit or extension thereof shall be  
2 accompanied by an application fee of ~~\$100~~ \$200.

3 (b) The chief engineer shall adopt rules and regulations to effectuate  
4 and administer the provisions of this section.

5 (c) Nothing in this section shall be deemed to vest in the holder of  
6 any permit granted pursuant to provisions of this section any permanent  
7 right to appropriate water except as is provided by such permit.

8 (d) All fees collected by the chief engineer pursuant to this section  
9 shall be remitted to the state treasurer as provided in K.S.A. 82a-731 and  
10 amendments thereto.

11 Sec. 27. K.S.A. 82a-732 is hereby amended to read as follows: 82a-  
12 732. (a) The owner of a water right or permit to appropriate water for  
13 beneficial use, except for domestic use, shall file an annual water use  
14 report on a form prescribed by the chief engineer of the division of water  
15 resources of the ~~state board~~ department of agriculture and submit an  
16 administration fee of \$20 per water right or permit to appropriate water  
17 on or before March 1 following the end of the previous calendar year.  
18 The report shall completely and accurately set forth such water use in-  
19 formation as requested by the chief engineer.

20 (b) Any person failing to file a *complete, accurate and timely* water  
21 use report or other documents *or to submit the administration fee* re-  
22 quired under the provisions of subsection (a) shall be subject to a civil  
23 penalty in an amount not to exceed \$250. The chief engineer upon a  
24 finding that the owner of a water right or permit to appropriate water for  
25 beneficial use has failed to file such a *complete, accurate and timely* report  
26 *or to submit the administration fee* may impose a civil penalty as provided  
27 in this section. Any person filing a document knowing it to contain any  
28 false information as to a material matter shall be guilty of a class C mis-  
29 demeanor.

30 (c) All fines collected by the chief engineer pursuant to this subsec-  
31 tion shall be remitted to the state treasurer as provided in K.S.A. 82a-  
32 731, and amendments thereto.

33 Sec. 28. K.S.A. 83-201 is hereby amended to read as follows: 83-201.  
34 As used in article 2 of chapter 83 of the Kansas Statutes Annotated and  
35 K.S.A. 83-502, and amendments thereto:

36 (a) "Weights and measures" means all commercial weights or meas-  
37 ures of every kind, instruments and devices for weighing and measuring,  
38 and any appliance and accessories associated with any or all such instru-  
39 ments and devices and any point-of-sale system.

40 (b) "Weight" as used in connection with any commodity means net  
41 weight, except if the label declares that the product is sold by drained  
42 weight, the term means net drained weight.

43 (c) "Correct" as used in connection with weights and measures means

1 conformance to all applicable tolerances, specifications and requirements  
2 as established by the secretary and those established within article 2 of  
3 chapter 83 of Kansas Statutes Annotated, and amendments thereto or any  
4 rules and regulations adopted thereunder.

5 (d) "Primary standards" means the physical standards of the state  
6 which serve as the legal reference from which all other standards and  
7 weights and measures are derived.

8 (e) "Secondary standards" means the physical standards which are  
9 traceable to the primary standards through comparisons, using acceptable  
10 laboratory procedures, and used in the enforcement of weights and meas-  
11 ures laws and rules and regulations.

12 (f) "Person" means an individual, agent or employee of a service com-  
13 pany, partnerships, corporations, companies, societies and associations.

14 (g) "Sale from bulk" means the sale of commodities when the quan-  
15 tity is determined at the time of sale.

16 (h) "Package" means any commodity put up or packaged in any man-  
17 ner in advance of sale in units suitable for either wholesale or retail sale.

18 (i) "Drained weight" means the weight of the solid or semisolid prod-  
19 uct representing the contents of a package or container obtained after a  
20 prescribed method for excluding the liquid has been employed.

21 (j) "Secretary" means the secretary of agriculture or the secretary's  
22 authorized representative.

23 (k) "Measuring device" includes all weights, scales, beams, measures  
24 of every kind, instruments and mechanical devices for weighing or meas-  
25 uring, and any appliances and accessories connected with any or all such  
26 instruments.

27 (l) "Point-of-sale system" means any combination of a cash register  
28 or other devices, or system, such as a scanner, capable of recovering  
29 stored information related to the price or computing the price of any  
30 individual item which is sold or offered for sale at retail. A point-of-sale  
31 system may also include or be attached or connected to a weighing or  
32 measuring device.

33 (m) "Scanner" means any electronic system that employs a laser-bar  
34 code reader to retrieve product identity, price or other information stored  
35 in a computer memory.

36 (n) "Service company" means a company which is in the business of  
37 examining, calibrating, testing, repairing and adjusting weighing and  
38 measuring devices but such term does not include a technical represen-  
39 tative unless the technical representative is the owner of such service  
40 company.

41 (o) "Technical representative" means an individual who installs, re-  
42 pairs, adjusts or calibrates the weighing and measuring devices and cer-  
43 tifies the accuracy of the weighing and measuring devices.

1 (p) "Large scale" means a weighing device with a capacity of greater  
2 than 2000 pounds.

3 (q) "Small scale" means a weighing device with a capacity of 2000  
4 pounds or less.

5 Sec. 29. K.S.A. 83-205 is hereby amended to read as follows: 83-205.

6 (a) There is hereby established in the department of agriculture a weights  
7 and measures inspection program to enforce the provisions of chapter 83  
8 of the Kansas Statutes Annotated, and amendments thereto or any rules  
9 and regulations adopted thereunder. The program shall be under the  
10 supervision of the secretary, and the secretary shall employ an adminis-  
11 trator of the program and appoint such personnel as may be necessary  
12 for the proper administration of chapter 83 of the Kansas Statutes An-  
13 notated, and amendments thereto. The administrator shall be in the un-  
14 classified service of the Kansas civil service act.

15 (b) The weights and measures inspection program shall perform the  
16 following functions:

17 (1) Assure that weights and measures in commercial service within  
18 the state are suitable for their intended use, properly installed, accurate  
19 and are so maintained by their owner or user;

20 (2) prevent unfair or deceptive dealing by weight or measure in any  
21 commodity or service advertised, packaged, sold or purchased within this  
22 state;

23 (3) make available to all users of physical standards or weighing and  
24 measuring equipment the precision calibration and related metrological  
25 certification capabilities of the weights and measures facilities of the de-  
26 partment of agriculture;

27 (4) promote uniformity, to the extent such conformance is practicable  
28 and desirable, between weights and measures requirements of this state  
29 and those of other states and federal agencies;

30 (5) encourage desirable economic growth while protecting the con-  
31 sumer through the adoption by rule and regulation of weights and meas-  
32 ures requirements as necessary to assure equity among buyers and sellers;  
33 ~~and~~

34 (6) assess an authorization fee to provide for the administration of  
35 this act. Such fee shall be assessed on every place of business or person  
36 who operates a weighing or measuring device, a scanning device, a point  
37 of sale system, or metering device for commercial purposes or measuring  
38 commodities, which are subject to the jurisdiction of the secretary. The  
39 fee shall be due March 1 and shall be assessed as follows:

- 40 (A) small scales per facility - 1 ..... \$15/facility;
- 41 (B) small scales per facility - 2-3 ..... \$25/facility;
- 42 (C) small scales per facility - 4 or more ..... \$40/facility;
- 43 (D) large scales per facility - 1 ..... \$60/facility;

- 1 (E) large scales per facility - 2-3..... \$115/facility;
- 2 (F) large scales per facility - 4 or more ..... \$170/facility;
- 3 (G) scanning devices or point of sale system - 1-3..... \$30/facility;
- 4 (H) scanning devices or point of sale systems - 4 or more ..... \$60/facility; or
- 5 (I) metering device ..... \$25/facility;

6 (7) *The secretary shall remit all moneys received under this section*  
 7 *to the state treasurer in accordance with the provisions of K.S.A. 75-4215,*  
 8 *and amendments thereto. Upon receipt of each such remittance, the state*  
 9 *treasurer shall deposit the entire amount in the state treasury to the credit*  
 10 *of the weights and measures fee fund; and*

11 (8) such other functions as may be specified by law or deemed nec-  
 12 essary by the secretary to carry out the duties and functions of chapter  
 13 83 of the Kansas Statutes Annotated, and amendments thereto or any  
 14 rules and regulations adopted thereunder.

15 Sec. 30. K.S.A. 2001 Supp. 83-302 is hereby amended to read as  
 16 follows: 83-302. (a) Each person, other than an authorized representative  
 17 of the secretary or an authorized representative of a city or county de-  
 18 partment of public inspection of weights and measures established pur-  
 19 suant to K.S.A. 83-210, and amendments thereto, desiring to operate and  
 20 perform testing and other services as a company in Kansas shall apply to  
 21 the secretary for a service company license, on a form to be supplied by  
 22 the secretary, and shall obtain such license from the secretary before  
 23 operating and performing testing or other services as a service company.  
 24 Each service company shall obtain a license for each place of business  
 25 maintained in Kansas and shall pay a license application fee of ~~\$50~~ \$100  
 26 and thereafter an annual license renewal application fee of ~~\$50~~ \$100 for  
 27 each place of business. Each service company license shall expire on June  
 28 30 following issuance, shall be void unless renewed prior to the expiration  
 29 and shall not be transferable.

30 (b) If any service company maintains any out-of-state places of busi-  
 31 ness which the company operates in serving Kansas patrons, the service  
 32 company seeking to obtain or renew a license under this section shall list  
 33 in the application such places of business and the firm names under which  
 34 the company operates at each such place of business. If any out-of-state  
 35 place of business is established by a service company after being licensed  
 36 under this section, the licensee shall supply such information to the sec-  
 37 retary before any work is performed in Kansas from such out-of-state  
 38 location. Each nonresident service company shall designate a resident  
 39 agent upon whom service of notice or process may be made to enforce  
 40 the provisions of chapter 83 of the Kansas Statutes Annotated, and  
 41 amendments thereto, or any liabilities arising from operations thereun-  
 42 der. Each nonresident service company which maintains no established  
 43 place of business in Kansas shall obtain a license under this section for

1 each out-of-state place of business and shall list on the application the  
2 firm name or names for each place of business from which the service  
3 company intends to operate.

4 (c) Each technical representative shall be licensed annually by the  
5 secretary. Each technical representative shall be required to attend con-  
6 tinuing education seminars on an annual basis as required by rules and  
7 regulations adopted by the secretary and to pass a reasonable examination  
8 prescribed by the secretary each year prior to being licensed. The de-  
9 partment of agriculture shall be authorized to charge a fee to the atten-  
10 dees of the continuing education seminars sponsored by the agency. The  
11 amount charged shall be no more than is necessary to cover the expenses  
12 incurred in providing the seminar. Each technical representative's license  
13 shall expire on June 30 following the issuance of the license and shall be  
14 void unless renewed prior to the expiration.

15 (d) No service company license may be issued or renewed under this  
16 section until the applicant's weights or measures, or both have been tested  
17 for accuracy and sealed by the secretary. The secretary is authorized to  
18 accept a certification of the accuracy of the applicant's weights or meas-  
19 ures issued by the national institute of standards and technology or by a  
20 weights and measures laboratory certified by the national institute of stan-  
21 dards and technology in lieu of a test by the secretary, if such certificate  
22 shows that the weights or measures have been tested within the last 365  
23 days preceding the license application.

24 (e) The secretary shall remit all moneys received under this section  
25 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
26 and amendments thereto. Upon receipt of each such remittance, the state  
27 treasurer shall deposit the entire amount in the state treasury to the credit  
28 of the weights and measures fee fund.

29 Sec. 31. K.S.A. 2001 Supp. 83-402 is hereby amended to read as  
30 follows: 83-402. (a) Each person, other than an authorized representative  
31 of the secretary or an authorized representative of a city or county de-  
32 partment of public inspection of weights and measures established pur-  
33 suant to K.S.A. 83-210, and amendments thereto, desiring to operate and  
34 perform testing and other services as a service company in Kansas shall  
35 apply to the secretary for a service company license, on a form to be  
36 supplied by the secretary, and shall obtain such license from the secretary  
37 before operating and performing testing or other services as a service  
38 company. Each service company shall obtain a license for each place of  
39 business maintained in Kansas and shall pay a license application fee of  
40 ~~\$50~~ \$100 and thereafter an annual license renewal application fee of ~~\$50~~  
41 \$100 for each place of business. Each service company license shall expire  
42 on June 30 following issuance, shall be void unless renewed prior to the  
43 expiration and shall not be transferable.

1 (b) If any service company maintains any out-of-state places of busi-  
2 ness which the service company operates in serving Kansas patrons, the  
3 applicant seeking to obtain or renew a license under this section shall list  
4 in the application such places of business and the firm names under which  
5 the service company operates at each such place of business. If any out-  
6 of-state place of business is established by a service company after being  
7 licensed under this section, the licensee shall supply such information to  
8 the secretary before any work is performed in Kansas from such out-of-  
9 state location. Each nonresident service company shall designate a resi-  
10 dent agent upon whom service of notice or process may be made to  
11 enforce the provisions of chapter 83 of the Kansas Statutes Annotated,  
12 and amendments thereto, or any liabilities arising from operations there-  
13 under. Each nonresident service company which maintains no established  
14 place of business in Kansas shall obtain a license under this section for  
15 each out-of-state place of business and shall list on the application the  
16 firm name or names for each place of business from which the service  
17 company intends to operate.

18 (c) Each technical representative shall be licensed annually by the  
19 secretary. Each technical representative shall be required to attend con-  
20 tinuing education seminars on an annual basis as required by rules and  
21 regulations adopted by the secretary and to pass a reasonable examination  
22 prescribed by the secretary each year prior to being licensed. The state  
23 department of agriculture shall be authorized to charge a fee to the at-  
24 tendees of the seminar sponsored by the department. The amount  
25 charged shall be no more than is necessary to cover the expenses incurred  
26 in providing the seminar. All technical representatives who install, repair,  
27 adjust or calibrate a device and certify such devices shall be required to  
28 pass the state examination annually. Each technical representative license  
29 shall expire on June 30 following issuance of the license and shall be void  
30 unless renewed prior to the expiration.

31 (d) No service company license may be issued or renewed under this  
32 section until the applicant's weights and measures have been tested for  
33 accuracy and sealed by the secretary. The secretary is authorized to accept  
34 a certification of the accuracy of the applicant's weights or measures is-  
35 sued by the national institute of standards and technology, by a weights  
36 and measures laboratory certified by the national institute of standards  
37 and technology, or by the appropriate certifying agency of another state  
38 in lieu of a test by the secretary, if such certificate shows that the weights  
39 or measures have been tested within the 12 calendar months next pre-  
40 ceding the license application.

41 (e) The secretary shall remit all moneys received under this section  
42 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
43 and amendments thereto. Upon receipt of each such remittance, the state

1 treasurer shall deposit the entire amount in the state treasury to the credit  
2 of the weights and measures fee fund.

3 New Sec. 32. There is hereby created a fertilizer and pesticide com-  
4 pliance and administration fund. All moneys credited to the fund shall be  
5 expended to the fertilizer and pesticide program under the supervision  
6 of the secretary of agriculture for the purpose of administration and as-  
7 suring compliance with the applicable provisions of Kansas law. All ex-  
8 penditures shall be made in accordance with the appropriations acts upon  
9 warrants of the director of accounts and reports issued pursuant to vouch-  
10 ers approved by the secretary of agriculture or by a person designated by  
11 the secretary.

12 Sec. 33. K.S.A. 2-1205, 2-2204, 2-2440, 2-2440b, 2-2441a, 2-2443a,  
13 2-2445a, 2-2805, 2-2806, 2-2905, 2-2906, 2-3304, 2-3306, 2-3318, 65-  
14 6a34, 82a-727, 82a-732, 83-201 and 83-205 and K.S.A. 2001 Supp. 65-  
15 6a18, 65-771, 65-775, 65-778, 65-781, 65-782, 65-789, 82a-708a, 82a-  
16 708b, 82a-714, 83-302 and 83-402 are hereby repealed.

17 Sec. 34. This act shall take effect and be in force from and after its  
18 publication in the statute book.

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