

SESSION OF 2002

SUPPLEMENTAL NOTE ON SENATE BILL NO. 419

As Amended by Senate Committee on
Public Health and Welfare

Brief*

SB 419, as amended by Senate Committee, supplements two statutes enacted in 2001 that made it unlawful for any person to engage in the business of operating a retail food store or food processing plant unless such person has a license issued by the Secretary of Health and Environment. The 2001 legislation defines terms, authorizes the Secretary to adopt a graduated inspection fee schedule to cover the costs of inspection of retail food stores and food processing plants, provides for application and license fees, and requires an inspection prior to the issuing of a license. SB 419 creates four additional statutes that give the Secretary authority to implement and enforce the earlier legislation.

New statutes created by SB 419 require the renewal of a license to conduct a retail food store or food processing plant, authorize the Secretary to deny a license renewal for failure to meet applicable standards, provide for an administrative appeal of a license renewal denial or the suspension or revocation of a license, require an annual inspection of every food processing plant and retail food store in Kansas, authorize the suspension or revocation of a license for failure to meet applicable standards, authorize the imposition of civil penalties, and allow the Secretary to seek an order enjoining a retail food store or food processing plant from operating without a license. New authority is given to the Secretary of Health and Environment to contract with other state agencies or other entities to conduct inspections of retail food stores and food processing plants.

SB 419 amends one of the statutes enacted in 2001 to make it clear that a food processing plant regulated under the statute does

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.accesskansas.org/legislature/>

not include a dairy or meat processing plant registered or licensed by the Department of Agriculture.

Background

SB 419 was introduced at the request of the Secretary of Health and Environment who explained to the Senate Committee that the 2001 legislation, while requiring retail food stores and food processing plants to be licensed, did not provide for any means of enforcing the requirement. A representative of the Department appeared to support the bill during a Committee hearing. Another conferee expressed concern that some meat processors or dairy operations would be subject to regulation by both the Department of Agriculture and the Department of Health and Environment. The Senate Committee amendments make it clear that those establishments subject to regulation under other laws are not to be considered as food processing plants. Authority is also given to the Secretary to contract with the Department of Agriculture or other state agency or another entity to do inspections.

The fiscal note on SB 419 indicates that approximately 70 percent of the retail food stores and food processing plants subject to licensing under the legislation enacted in 2001 have obtained a license. The remaining 30 percent have not complied with the law or paid the required license fee. Licensing of those facilities not in compliance would generate approximately \$135,000 which would be deposited in the Food Inspection Fee Fund. It is estimated the enforcement authority granted by SB 419 would increase administrative actions resulting in civil penalties that would be deposited in the State General Fund. The agency would not require additional FTE positions to implement the provisions of the bill. Because SB 419 allows the enforcement of laws already in place, the bill would not change expenditures or revenues.