As Amended by Senate Committee

Session of 2020

SENATE BILL No. 308

By Committee on Agriculture and Natural Resources

1-23

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

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

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

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

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

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

(b) "Bulk milk pick up tanker" means a vehicle including the truck, tank and those appurtenances necessary for such vehicle's use, used by a bulk milk hauler or sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station or transfer station.
(c) "Dairy manufacturing plants" means any place where dairy products, grade A milk or milk products are manufactured or prepared for sale or distribution, either at wholesale or retail. This term shall "Dairy manufacturing plants" does not include a licensed food service establishment which is licensed to manufacture homemade ice cream pursuant to this act.

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

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

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

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

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

(i) "Grade A pasteurized milk products" means all pasteurized milk products which have at least a 90% survey rating, as determined by a survey of the source conducted by the secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation. The pasteurized milk products shall meet the requirements for grade A under rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on...
grade A pasteurized milk products within the statewide system of milk
inspection and regulatory services, although such grade A pasteurized milk
products do not have at least a 90% survey rating.

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

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

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

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

(2) "Milk" does not include milk or milk products produced for on-

farm retail sale:

(m)(m) "Milk distributor" means any person who first sells or offers
for sale in Kansas any packaged grade A pasteurized milk, milk product, or
dairy product.

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

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

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

(r) "Milk or cream receiving station" means any place where milk
or cream may be received, collected, handled, processed, stored or
collected and prepared for further transporting.

(s) "Milk or cream transfer station" means any place where milk or
cream are transferred directly from one milk tank truck to another.

(t) "Milk plant" means any place, premises or establishment where
milk or milk products are collected, handled, processed, stored,
pasteurized, ultrapasteurized, aseptically processed, condensed, dried,
packaged or prepared for distribution.

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

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

(w) "Milk products" means cream, light cream, light whipping
cream, heavy cream, heavy whipping cream, whipped cream, whipped
light cream, sour cream, acidified sour cream, cultured sour cream, half-
and-half, sour half-and-half, acidified sour half-and-half, cultured sour
half-and-half, reconstituted or recombined milk and milk products,
concentrated milk, concentrated milk products, nonfat skim milk, reduced
fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured
milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk,
yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat skim milk, aseptically processed and packaged milk and milk products, milk, reduced fat or lowfat milk or nonfat skim milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification of milk products defined herein. "Milk products" also include those dairy foods made by modifying the federally standardized products listed in this section in accordance with 21 C.F.R. § 130.10, requirements for foods named by use of a nutrient content claim and a standardized term. Milk and milk products which have been retort processed after packaging or which have been concentrated, condensed or dried are included in this definition only if they are used as an ingredient to produce any milk or milk product defined herein or if they are labeled as Grade A as adopted and described by rules and regulations promulgated under this act. Except as otherwise provided, the term "milk products" does not include dietary products, infant formula, ice cream or other desserts, butter or cheese.

"Milk tank truck" means the term used to describe both a bulk milk pick up tanker and a milk transport tank.

"Milk tank truck cleaning facility" means any place, premises or establishment, other than a milk plant, receiving station or transfer station, where a milk tank truck is cleaned and sanitized.

"Milk transport tank" means a vehicle including the truck and tank, used by a bulk milk hauler or sampler to transport bulk shipments of milk and milk products from a milk plant, receiving station or transfer station to another milk plant, receiving station or transfer station.

"Milk transportation company" means the person, business or entity responsible for a milk tank truck.

"Misbranded" has the same meaning as ascribed to it in K.S.A. 65-665, and amendments thereto.

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

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

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

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

(gg) (ff) "Secretary" means the secretary of the Kansas department of
agriculture, or the secretary's designee.

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

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

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