

HOUSE BILL No. 2156

By Committee on Agriculture

1-27

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

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

7 New Section 1. (a) The on-farm retail sale of milk or milk products
8 shall be lawful, so long as each container of unpasteurized raw milk sold
9 or offered for sale bears a label that is clearly visible and states the
10 following or its equivalent in a clearly visible font size: "This product
11 contains raw milk that is not pasteurized."

12 (b) Any person who engages in the on-farm retail sale of milk or milk
13 products may advertise such milk or milk products. Any such
14 advertisement shall not be false or misleading and shall state that such
15 milk or milk products are raw and unpasteurized. If such advertisement is
16 in print or other written or visual form, such statement shall be clearly
17 visible.

18 (c) In addition to any other remedies available under this act, the
19 secretary may impose a civil penalty pursuant to K.S.A. 65-788, and
20 amendments thereto, against any person who violates this section.

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

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

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

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

35 (d) "Dairy products" means products ~~which~~ *that* may be made from
36 milk or cream for manufacturing purposes and ~~which~~ are not required to

1 meet grade A standards, ~~including~~. "Dairy products" includes butter,
2 cheese, dry whole milk, nonfat dry milk, dry buttermilk, dry whey,
3 evaporated milk, whole or skim, condensed whole milk, condensed skim
4 milk, sweetened or plain, frozen dairy dessert, ~~and~~ frozen dairy dessert
5 mixes and such other products as may be otherwise designated by rules
6 and regulations.

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

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

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

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

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

39 (j) ~~"Grade A raw milk for pasteurization" means milk having at~~
40 ~~least 90% survey rating, as determined by a survey of the source~~
41 ~~conducted by the secretary pursuant to the survey rating methods for~~
42 ~~conducting surveys of the status of milk sanitation, the raw milk meeting~~
43 ~~the requirements for grade A under the rules and regulations adopted~~

1 pursuant to this act. The secretary may authorize the use of the grade A
 2 designation for a temporary time period on grade A raw milk for
 3 pasteurization within the statewide system of milk inspection and
 4 regulatory services, although such milk does not have at least a 90%
 5 survey rating.

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

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

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

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

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

41 ~~(p)~~(o) "Milk inspection and regulatory services" means the
 42 inspection, sampling, laboratory testing and the administrative procedures
 43 relating thereto, necessary to determine that the production, processing,

1 distribution and sale of grade A milk, milk products, and dairy products
2 comply with the requirements of this act and any rules and regulations
3 adopted hereunder.

4 ~~(q)~~(p) "Milk or cream for manufacturing purposes" means raw milk
5 or raw cream ~~which~~ *that* is not subject to grade A standards and ~~which~~ is
6 produced for processing and manufacturing into dairy products for human
7 consumption. Milk for manufacturing purposes may contain less than
8 3.25% of butterfat and shall be delivered pure, sweet and clean.

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

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

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

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

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

26 ~~(w)~~(v) "Milk products" means cream, light cream, light whipping
27 cream, heavy cream, heavy whipping cream, whipped cream, whipped
28 light cream, sour cream, acidified sour cream, cultured sour cream, half-
29 and-half, sour half-and-half, acidified sour half-and-half, cultured sour
30 half-and-half, reconstituted or recombined milk and milk products,
31 concentrated milk, concentrated milk products, nonfat skim milk, reduced
32 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured
33 milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk,
34 yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat
35 or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium
36 reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced
37 milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat
38 skim milk, aseptically processed and packaged milk and milk products,
39 milk, reduced fat or lowfat milk or nonfat skim milk with added safe and
40 suitable microbial organisms and any other milk product made by the
41 addition or subtraction of milkfat or addition of safe and suitable optional
42 ingredients for protein, vitamin or mineral fortification of milk products
43 defined herein. "Milk products" also ~~include~~ *includes* those dairy foods

1 made by modifying the federally standardized products listed in this
2 section in accordance with 21 C.F.R. § 130.10, requirements for foods
3 named by use of a nutrient content claim and a standardized term. Milk
4 and milk products ~~which~~ *that* have been retort processed after packaging
5 or ~~which~~ have been concentrated, condensed or dried are included in this
6 definition only if they are used as an ingredient to produce any milk or
7 milk product defined herein or if they are labeled as Grade A as adopted
8 and described by rules and regulations promulgated under this act. Except
9 as otherwise provided, ~~the term~~ "milk ~~shall~~ *products*" *does* not include
10 dietary products, infant formula, ice cream or other desserts, butter or
11 cheese.

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

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

17 ~~(z)~~(y) "Milk transport tank" means a vehicle including the truck and
18 tank, used by a bulk milk hauler or sampler to transport bulk shipments of
19 milk and milk products from a milk plant, receiving station or transfer
20 station to another milk plant, receiving station or transfer station.

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

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

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

35 ~~(dd)~~(cc) "Pasteurized" ~~has the same meaning as ascribed to it means~~
36 *the same as provided* in 21 C.F.R. §§ 131.3 and 135.3, *as in effect on July*
37 *1, 2021.*

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

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

43 ~~(gg)~~(ff) "Secretary" means the secretary of the Kansas department of

1 agriculture; or the secretary's designee.

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

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

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