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To: Senate Committee on Agriculture
Senator Dan Kerschen, Chair

From: Tucker A. Stewart, Associate Counsel, Kansas Livestock Association

Re: **SB 308 allowing the on-farm retail sale of raw, unpasteurized milk so long as certain labeling and advertising requirements are met;**

Date: February 12, 2020

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,500 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.

Thank you, Mr. Chairman, and members of the Committee. The Kansas Livestock Association (KLA) supports SB 308 and requests the committee adopt an amendment requiring any dairy wishing to sell unpasteurized milk directly to consumers on the farm to meet the same grade A inspection standards of dairies who sell their milk to a processor.

As the bill currently reads, SB 308 would require the labels and advertisements of unpasteurized milk to state "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." KLA worked with the Kansas Department of Agriculture (KDA) and the Kansas Department of Health and Environment in crafting the disclaimer language which KLA believes is necessary to warn consumers about the risks of consuming unpasteurized milk. This bill is in response to a recent court case that struck down the prohibition of advertising raw milk sales except on the farm premise. Currently in Kansas, unpasteurized milk may not be sold in retail stores and is only allowed to be sold on the farm.

First and foremost, it is important to understand pasteurized milk is a safe, wholesome, nutritional product packed with valuable nutrients essential to the human diet. However, there is a reason why pasteurization is important. There are real health risks in consuming raw unpasteurized milk that warrant a disclaimer, so consumers have enough information to appreciate and understand the risk they are taking when consuming unpasteurized milk. Health risks that can be easily eliminated by pasteurizing milk. Pasteurization was developed in the late 1800s during a time when millions of people became sick and died of tuberculosis, scarlet fever, typhoid fever, and other diseases that were transmitted through raw unpasteurized milk. Pasteurization requirements have quite actually prevented millions of people from becoming ill.

Unpasteurized milk can carry dangerous organisms, such as Brucella, Campylobacter, Cryptosporidium, E. coli, Listeria, and Salmonella, which can pose serious health risks. According to the Centers for Disease Control and Prevention (CDC), from 1993 through 2012, there were 127 food-borne illness outbreaks linked to unpasteurized milk.¹ The CDC states, "[t]hese outbreaks included 1,909 illnesses and 144 hospitalizations." The CDC notes, "[a] large number of raw milk outbreaks involve children. At least

¹ <https://www.cdc.gov/foodsafety/rawmilk/raw-milk-questions-and-answers.html>

one child younger than 5 was involved in 59% of the raw milk outbreaks reported to CDC from 2007 through 2012. Children aged 1 to 4 years accounted for 38% of Salmonella illnesses in these outbreaks and 28% of illnesses caused by Shiga toxin-producing E. coli, which can cause kidney failure and death.”

While the disclaimer is a good first step, KLA believes the state has an interest in ensuring raw milk sales and production meet the same sanitary conditions of all other dairies in the industry. Essentially all dairies selling fluid milk to a processor are required to meet certain sanitary standards. This includes but is not limited to a clean parlor, regular sanitation, cooling milk quickly, testing for antibiotics, somatic cell count testing, and a sealed milking system. To further safeguard the public, KLA requests that the committee adopt the following three amendments:

Amendment 1 – require any person selling or offering for sale ungraded raw milk or ungraded raw milk products on-farm to be registered with the KDA and pay a registration fee.

Amendment 2 – require any person selling or offering for sale ungraded raw milk or ungraded raw milk products on-farm to be subject to the same or substantially similar regulatory sanitation standards, inspections, and fees as other dairies who sell milk to a milk processor.

These two amendments do not ask KDA to reinvent the wheel regarding the inspection of milk. The first amendment would put KDA on notice regarding where these farms are located. The second amendment would require KDA to inspect these dairies in the same manner as existing dairies. KLA believes this is a reasonable and responsible request but is still willing to work with the relevant state agencies and relevant stakeholders on these amendments.

Finally, KLA believes “on-farm retail sale of milk or milk products” should not be completely excluded from the definition of “milk.” KLA also understands that the intent of the bill language is to avoid any pasteurization requirement for such sales. Therefore, KLA suggests the following final amendment:

Amendment 3 – instead of excluding milk products produced for on-farm retail sale from the definition of milk, simply exempt the pasteurization requirement of such sales. It could read (KLA suggestions in bold):

(m) ~~(1)~~—“Milk” means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. “Milk” includes goat milk. **Except for on-farm retail sale of milk or milk products,** Milk that is 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.~~

The reason for this amendment is to ensure KDA keeps its regulatory authority of all milk. If the “on-farm retail sale of milk or milk products” is completely exempted from the definition of “milk” then KLA believes KDA will no longer have jurisdiction over such sales. By retaining it within the definition of “milk” KDA will continue to have rule and regulation authority to establish standards for the “on-farm retail sale of milk or milk products” if it so chooses. It will also continue to have investigatory authority over these products if there is a food safety issue.

Thank you for this opportunity to present KLA’s position supporting SB 308. KLA respectfully requests the committee to pass SB 308 with the suggested amendments.