

**SENATE BILL No. 308**

By Committee on Agriculture and Natural Resources

1-23

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

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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 ungraded raw milk sold or  
9 offered for sale contains a label that clearly states the following: "This  
10 product contains ungraded raw milk that is not pasteurized and, as a result,  
11 may contain organisms that cause food-borne illness, especially in infants,  
12 young children, older adults, pregnant women and people with weak  
13 immune systems." This statement shall be in letters of a uniform size and  
14 no smaller than the largest font used elsewhere on the label.

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

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

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

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

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

1 pursuant to this act.

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

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

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

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

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

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

42 (j) "Grade A raw milk for pasteurization" means milk having at least  
43 90% survey rating, as determined by a survey of the source conducted by

1 the secretary pursuant to the survey rating methods for conducting surveys  
2 of the status of milk sanitation, the raw milk meeting the requirements for  
3 grade A under the rules and regulations adopted pursuant to this act. The  
4 secretary may authorize the use of the grade A designation for a temporary  
5 time period on grade A raw milk for pasteurization within the statewide  
6 system of milk inspection and regulatory services, although such milk does  
7 not have at least a 90% survey rating.

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

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

25 (m) (1) "Milk" means the lacteal secretion, practically free from  
26 colostrum, obtained by the complete milking of one or more healthy cows.  
27 "Milk" includes goat milk. Milk that is in final package form for beverage  
28 use shall have been pasteurized or ultrapasteurized, and shall contain not  
29 less than 8.25% milk solids not fat and not less than 3.25% milkfat. Milk  
30 may have been adjusted by separating part of the milkfat therefrom, or by  
31 adding thereto cream, concentrated milk, dry whole milk, skim milk,  
32 concentrated skim milk, or nonfat dry milk. Milk may be homogenized.  
33 ~~Milk shall be interpreted to include goat milk.~~

34 (2) "Milk" does not include milk or milk products produced for on-  
35 farm retail sale.

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

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

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

7 (q) "Milk or cream for manufacturing purposes" means raw milk or  
8 raw cream ~~which~~ that is not subject to grade A standards and ~~which~~ is  
9 produced for processing and manufacturing into dairy products for human  
10 consumption. Milk for manufacturing purposes may contain less than  
11 3.25% of butterfat and shall be delivered pure, sweet and clean.

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

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

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

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

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

29 (w) "Milk products" means cream, light cream, light whipping cream,  
30 heavy cream, heavy whipping cream, whipped cream, whipped light  
31 cream, sour cream, acidified sour cream, cultured sour cream, half-and-  
32 half, sour half-and-half, acidified sour half-and-half, cultured sour half-  
33 and-half, reconstituted or recombined milk and milk products,  
34 concentrated milk, concentrated milk products, nonfat skim milk, reduced  
35 fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured  
36 milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk,  
37 yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat  
38 or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium  
39 reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced  
40 milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat  
41 skim milk, aseptically processed and packaged milk and milk products,  
42 milk, reduced fat or lowfat milk or nonfat skim milk with added safe and  
43 suitable microbial organisms and any other milk product made by the

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

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

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

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

24 (aa) "Milk transportation company" means the person, business or  
25 entity responsible for a milk tank truck.

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

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

37 (dd) "Pasteurized" ~~has the same meaning as ascribed to it~~ *means the*  
38 *same as provided* in 21 C.F.R. §§ 131.3 and 135.3, *as in effect on July 1,*  
39 *2020.*

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

42 (ff) "Plant fabricating single service articles" means any place ~~which~~  
43 *that* manufactures single service articles ~~which~~ *that* are expected to come

1 in contact with grade A milk or grade A milk products.

2 (gg) "Secretary" means the secretary of the Kansas department of  
3 agriculture; or the secretary's designee.

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

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

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