

**SENATE BILL No. 346**

By Committee on Agriculture and Natural Resources

1-14

1 AN ACT concerning agriculture; relating to milk and dairy products;  
2 allowing on-farm retail sale of milk and milk products; extending  
3 certain milk and dairy license fees; authorizing the secretary of  
4 agriculture to declare an imminent health hazard; authorizing civil  
5 penalties for certain dairy law violations; amending K.S.A. 65-771, 65-  
6 778, 65-781, 65-786 and 65-788 and repealing the existing sections.  
7

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

9 New Section 1. (a) Except as provided in article 7 of chapter 65 of the  
10 Kansas Statutes Annotated, and amendments thereto, and in rules and  
11 regulations adopted by the secretary hereunder, the secretary shall apply  
12 the definitions and standards of identity ascribed to milk and dairy  
13 products by the federal food and drug administration.

14 (b) Goat milk sold in retail packages shall contain not less than 2.5%  
15 milkfat and not less than 7.5% milk solids not fat. Goat milk shall be  
16 produced according to the sanitary standards of this act and may have been  
17 adjusted by separating part of the milkfat therefrom or by adding cream,  
18 concentrated milk, dry whole milk, skim milk, concentrated skim milk or  
19 nonfat dry milk thereto. Goat milk may be homogenized.

20 (c) Milk that is not goat milk shall contain not less than 3.25%  
21 milkfat and not less than 8.25% milk solids not fat. Milk may have been  
22 adjusted by separating part of the milkfat therefrom or by adding cream,  
23 concentrated milk, dry whole milk, skim milk, concentrated skim milk or  
24 nonfat dry milk thereto. Milk may be homogenized.

25 (d) Milk or cream for manufacturing purposes may contain less than  
26 3.25% butterfat and shall be delivered pure, sweet and clean.

27 (e) Grade A pasteurized milk, grade A pasteurized milk products and  
28 grade A milk for pasteurization shall meet the requirements for grade A  
29 under the rules and regulations adopted pursuant to this act. The secretary  
30 may authorize the use of the grade A designation for a temporary time  
31 period on grade A pasteurized milk within the statewide system of milk  
32 inspection and regulatory services, even if such grade A pasteurized milk  
33 does not have at least a 90% survey rating.

34 New Sec. 2. (a) The on-farm retail sale of milk or milk products shall  
35 be lawful, so long as each container of unpasteurized raw milk sold or  
36 offered for sale bears a label that is clearly visible and states the following

1 through (f) shall not be increased in excess of the maximum amounts  
2 provided in this section.

3 Sec. 5. K.S.A. 65-781 is hereby amended to read as follows: 65-781.  
4 The following fees for the statewide system of milk inspection and  
5 regulatory services are hereby established:

6 (a) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
7 ~~2023~~ 2028, a fee of \$.015 for each 100 pounds of milk produced by milk  
8 producers under Kansas grade A inspection shall be paid. Each producer is  
9 hereby charged with such fee, which shall be paid to the milk producers'  
10 cooperative, milk processor or milk distributor to whom the milk is sold or  
11 delivered. Each cooperative, processor or distributor is hereby charged  
12 with the duty of collecting such fees, which shall be remitted to the  
13 secretary.

14 (b) A fee of \$.01, or commencing July 1, 2002, and ending June 30,  
15 ~~2023~~ 2028, a fee of \$.02 for each 100 pounds of packaged grade A  
16 pasteurized milk or milk products sold in Kansas at retail to the final  
17 consumer shall be paid. Each distributor is hereby charged with such fee,  
18 which shall be remitted to the secretary.

19 (c) A fee of ~~\$.01~~ or commencing July 1, 2002, and ending June 30,  
20 ~~2023~~ 2028, a fee of \$.02 per 100 pounds or fraction thereof of grade A raw  
21 milk for pasteurization delivered to a milk processor within the state of  
22 Kansas ~~which~~ that is processed into grade A milk ~~or~~ grade A milk products  
23 shall be paid. Each milk processor is hereby charged with such fee, which  
24 shall be remitted to the secretary. This fee shall not be paid if the milk is  
25 processed or manufactured at the dairy where such milk is produced and  
26 less than 7,000,000 pounds of milk are processed annually.

\$ .0075

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or other dairy products

27 (d) A milk fee of \$.01, or commencing July 1, 2002, and ending June  
28 30, ~~2023~~ 2028, a fee of \$.015 per 100 pounds of milk or cream for  
29 manufacturing purposes produced by milk producers under Kansas  
30 manufacturing grade milk inspection shall be paid. Each producer is  
31 hereby charged with such fee, which shall be paid to the milk producers'  
32 cooperative, dairy manufacturing plant or any other person to whom the  
33 milk or cream for manufacturing purposes is sold or delivered. Each  
34 cooperative, dairy manufacturing plant or other person is hereby charged  
35 with the duty of collecting such fees, which shall be remitted to the  
36 secretary.

37 (e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30,  
38 ~~2023~~ 2028, a fee of \$.02 per 100 pounds of Kansas produced milk or  
39 cream for manufacturing purposes or other Kansas produced milk  
40 delivered to a dairy manufacturing plant shall be paid on all Kansas milk  
41 used in the manufacturing of dairy products. As used in this subsection, ~~the~~  
42 ~~term~~ "dairy products ~~shall~~" does not include any frozen dairy dessert or  
43 frozen dairy dessert mix. Each dairy manufacturing plant shall pay such

1 *occurrence of the final anticipated injury or other disease-related*  
2 *condition shall not be a prerequisite for the establishment of the existence*  
3 *of an imminent health hazard and the use of any authority granted*  
4 *pursuant to this act, including any action taken pursuant to subsection (a)*  
5 *or (b) or K.S.A. 65-780a or 65-785, and amendments thereto.*

6 Sec. 7. K.S.A. 65-788 is hereby amended to read as follows: 65-788.

7 (a) Any licensee or any employee or agent thereof who violates any  
8 provision of this act or any rules and regulations promulgated thereunder  
9 and any person who violates ~~K.S.A. 65-784a~~ and amendments thereto, in

section 1

10 addition to any other penalty provided by law, may incur a civil penalty  
11 imposed under subsection (b) in the amount fixed by rules and regulations  
12 of the secretary in an amount not less than \$100 nor more than \$300 for  
13 each violation and, in the case of a continuing violation, every day such  
14 violation continues may be deemed a separate violation.

15 (b) No civil penalty shall be imposed pursuant to this section except  
16 upon the written order of the secretary to the licensee who committed the  
17 violation. Such order shall state the violation, the penalty to be imposed  
18 and the right of the licensee to appeal to the secretary. Any such licensee  
19 within 20 days after notification, may make written request to the secretary  
20 for a hearing in accordance with the provisions of the Kansas  
21 administrative procedure act. The secretary shall affirm, reverse or modify  
22 the order and shall specify the reasons therefor.

23 (c) ~~Any licensee~~ *person subject to and* aggrieved by a final order of  
24 the secretary made under this section may appeal such order to the district  
25 court in the manner provided by the Kansas judicial review act.

26 (d) Any civil penalty recovered pursuant to the provisions of this  
27 section shall be remitted to the state treasurer, deposited in the state  
28 treasury and credited to the state general fund.

29 Sec. 8. K.S.A. 65-771, 65-778, 65-781, 65-786 and 65-788 are hereby  
30 repealed.

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