

SENATE BILL No. 233

By Committee on Commerce

2-9

9 AN ACT concerning agritourism; relating to food service establishments;
10 licensing; exception; amending K.S.A. 2004 Supp. 36-503 and 74-
11 50,168 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2004 Supp. 36-503 is hereby amended to read as
15 follows: 36-503. (a) It shall be unlawful for any person to engage in the
16 business of conducting a food service establishment unless such person
17 shall have in effect a valid license therefor issued by the secretary of health
18 and environment, except that any food service establishment providing
19 only a device for the convenience and operation by a customer for the
20 purpose of heating prepackaged food with no provision for consumption
21 of food on the premises, or any food service establishment licensed by
22 the secretary pursuant to any other law and maintained in connection
23 with any premises licensed by the secretary pursuant to any other law
24 shall not be required to obtain a license under this section, nor shall any
25 person engaged only in the serving of food on railway dining cars, *in the*
26 *sale or serving of food as an extension of a registered agritourism activity*
27 *by a registered agritourism operator as defined by K.S.A. 2004 Supp. 74-*
28 *50,167, and amendments thereto*, or in the occasional sale or serving of
29 food be required to obtain a license hereunder. For the purpose of this
30 section, the sale or serving of food in the same location less than seven
31 days in any calendar year shall be construed as the occasional sale or
32 serving of food. Nothing in this act shall prevent the secretary of health
33 and environment from inspecting any food service establishment when a
34 complaint against such food service establishment is transmitted to the
35 secretary of health and environment or any authorized agent thereof ex-
36 cept that no provision of this act shall be construed to authorize the
37 secretary of health and environment to inspect or cause to be inspected
38 under the provisions of this act any food service establishment licensed
39 by the secretary of health and environment pursuant to any other law or
40 maintained in connection with any premises licensed by the secretary
41 pursuant to any other law which food service establishment is not re-
42 quired to obtain a license under this section.

43 (b) Applications for such licenses shall be made on forms prescribed

1 by the secretary, and each such application shall be accompanied by an
2 application fee and by a license fee, each of which shall be established in
3 an amount fixed by rules and regulations adopted by the secretary of
4 health and environment. Application fees may be adjusted in accordance
5 with the type of establishment or based on other criteria as determined
6 by the secretary, but in no event shall any application fee exceed \$200.
7 Such license fee shall not exceed \$200 and shall be fixed in an amount
8 which, together with the application fee, is sufficient to defray the cost
9 of administering the food service establishment inspection and licensure
10 activities of the secretary. Prior to the issuance of any such license, the
11 secretary shall inspect or cause to be inspected the food service estab-
12 lishment designated in the application, to determine that it complies with
13 the standards for food service establishments promulgated pursuant to
14 this act. If such food service establishment is found to be in compliance,
15 the secretary shall issue the license. If the application for license is denied,
16 the secretary shall give written notice thereof to the applicant, stating also
17 that the applicant is entitled to a hearing thereon if a written request
18 therefor is filed with the secretary within 20 days of the date such notice
19 is sent. Such hearing shall be held in accordance with the provisions of
20 the Kansas administrative procedure act.

21 (c) Every license issued hereunder shall be displayed conspicuously
22 in the food service establishment for which it is issued, and no such license
23 shall be transferable to any other person or location. Whenever any such
24 license is lost, destroyed or mutilated, a duplicate license shall be issued
25 to any otherwise qualified licensee upon application therefor and the pay-
26 ment of a fee in the amount of \$3.

27 (d) Any person who, on the effective date of this act, has a valid
28 license to operate a restaurant shall be a licensee under the provisions of
29 this act, and any such license is hereby deemed to be a license to operate
30 a food service establishment issued under the provisions of this act.

31 (e) A premises where prepackaged individual meals are distributed
32 to persons eligible under the federal older Americans act shall not pay
33 any fee prescribed under subsection (b).

34 Sec. 2. K.S.A. 2004 Supp. 74-50,168 is hereby amended to read as
35 follows: 74-50,168. (a) Any person who is engaged in the business of
36 providing one or more agritourism activities may register with the sec-
37 retary of commerce. The registration shall contain all of the following:

38 (1) Information describing the agritourism activity which the person
39 conducts or intends to conduct.

40 (2) Information describing the location where the person conducts
41 or intends to conduct such agritourism activity.

42 (b) The secretary shall maintain a list of all registered agritourism
43 operators, the registered agritourism activities conducted by each oper-

1 ator and the registered agritourism location where the operator conducts
2 such activities. Such list shall be made available to the public. The sec-
3 retary, in conjunction with other agritourism and rural economic efforts
4 of the secretary, shall promote and publicize registered agritourism op-
5 erators, activities and locations to advance the purpose of this act by pro-
6 moting and encouraging tourism.

7 (c) Registration pursuant to this section shall be for a period of five
8 years.

9 (d) No fee shall be charged to persons registering under this section.

10 (e) *A registered agritourism operator shall not be subject to the food*
11 *service establishment licensing provisions of K.S.A. 2004 Supp. 36-503,*
12 *and amendments thereto, when selling or serving food as an extension of*
13 *a registered agritourism activity.*

14 Sec. 3. K.S.A. 2004 Supp. 36-503 and 74-50,168 are hereby repealed.

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