

SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 557

As Amended by Senate Committee on
Agriculture

Brief*

SB 557 would amend several provisions of current law to clarify that the Kansas Department of Agriculture (KDA) has the authority to promulgate rules and regulations that require food processing plants, food vending machine companies, and retail food stores to operate in a safe and sanitary manner. This clarification, among other things, would include the authority to impose civil penalties, seize contaminated food, allow a district court to restrain violations, allow the KDA to contract with local entities for inspection services, and permit the Secretary to refuse to renew a license. In addition, the bill would enact a new provision to permit all rules and regulations, orders and directives of the Secretary of KDA with regard to food processing plants, food vending machine companies, and retail food stores to continue to be effective until revised, amended, revoked, or nullified pursuant to law.

The bill also would clarify that the Department of Agriculture has the authority to license and inspect food service establishments in food processing plants and enact new law to authorize the Secretary of Agriculture to end the licensure period for food stores and food processing plants on December 31 in the year they were issued. Failure to renew would result in a restoration fee of \$10. Another new provision would allow the Secretary of Agriculture to adopt rules and regulations permitting the issuance of a single, combined license for such entities as a food service establishment located within a food processing plant. The bill would provide that certain entities would not be required to have an additional license if already

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

licensed or registered under another law. The fee for replacement of a lost or destroyed license for food vending machine companies, retail food stores, and food processing plants would be raised from \$3 to \$5.

Further, the bill would prohibit, on or after January 1, 2009, the Secretary of Agriculture from promulgating or enforcing any rules and regulations in regard to meat and poultry inspection that are more stringent, restrictive or expansive than required by federal law or any rule and regulation adopted by the United States Department of Agriculture. If the Secretary determines that a more stringent, restrictive or expansive rule and regulation is necessary, the Secretary could only implement it after the approval by an act of the Legislature.

Lastly, the bill would enact a new provision which would allow the Secretary to issue certificates of free sale upon request for a fee of not to exceed \$25 per certificate. The agency would be authorized to adopt appropriate rules and regulations for the issuance of certificates of free sale.

Background

The bill was introduced at the request of a spokesperson from KDA. At the hearing on the bill, the only conferee was a spokesperson from KDA. The spokesperson explained that since the transfer of authority from the Kansas Department of Health and Environment (KDHE) that the agency found the facilities regulated did not present an equal risk to consumers and this resulted in the need to inspect on a basis of risk. In addition, the agency found it did not have the authority to issue a single, combined license for the facilities under its jurisdiction. The Committee was told the agency learned from the Attorney General's Office that there were other ambiguities between the 2004 Executive Reorganization Order; the act that the Legislature passed in 2004 dealing with the Order; the Kansas Food, Drug, and Cosmetic Act; and the Kansas Food Service and Lodging Act. It was noted that much of the clarifying

language resulted from the need to resolve these ambiguities.

The Senate Committee on Agriculture amended the bill to limit the authority of the Secretary of Agriculture to promulgate rules and regulations in regard to meat and poultry inspection which are more restrictive, stringent, or expansive than required by federal law only if there has been approval of the Legislature. In addition, the bill was amended to clarify that if entities are licensed pursuant to another law, an additional license or registration would not be required.

The fiscal note on the bill indicates that KDHE would lose some \$4,000 to \$6,000 in revenue for the 20-30 food service establishment license fees. KDA would see its revenues increase by the same amount as it assumes the licensing. The fiscal note states that KDA indicates a negligible increase for the duplicate license fee. In addition, the fiscal note indicates that the agency does not expect to issue certificates of free sale at this time.