

SESSION OF 2008

SUPPLEMENTAL NOTE ON SENATE BILL NO. 584

As Amended by House Committee on
Agriculture and Natural Resources

Brief*

SB 584, if enacted, would create new statutes transferring all responsibility for the inspection and licensing of food service establishments and lodging facilities from the Department of Health and Environment (KDHE) to the Secretary of Agriculture effective October 1, 2008. The Division of Food Safety within the Department of Agriculture (KDA) would be the continuation of the KDHE concerning food service and lodging following the transfer. The bill would provide for the transfer and continuation of applicable rules and regulations, orders, real property, employees, and agency records as well as preserve any legal actions that commenced prior to the transfer. Certain restrictions on the expenditure of appropriated funds by the Secretary of KDHE prior to the transfer would be created upon publication in the *Kansas Register* and prior to October 1, 2008.

The bill would provide that the Secretary of KDA and the Secretary of KDHE establish a mechanism for ongoing communication and access between the Division of Food Safety and the Division of Health of KDHE. KDHE would be the lead agency for public health matters when human illness or disease occurs. The two agencies would be required to cooperate in the investigation of food borne illnesses (effective October 1, 2008).

The bill also would amend existing laws to change definitions and other language to reflect the transfer of authority for food service and lodging establishments.

*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>

In addition, the bill would stipulate that hotels which provide only complimentary food service to overnight guests would not be required to purchase a food service license separate from the lodging establishment license, but does not exempt food service establishment from inspection or regulation. This provision also would become effective upon publication in the *Kansas Register*.

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Background

Currently, under the Food Service and Lodging Act, hotels, rooming houses, and boarding houses (lodging establishments) are licensed and regulated by the Department of Health and Environment, as are restaurants, coffee shops, cafeterias, cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, taverns, private clubs, catering kitchens, commissaries, certain roadside stands, industrial-feeding establishments, or other any other eating or drinking establishment or operation where food is served or provided for the public with or without charge (food service establishment) and food vending machines. Currently, the Department of Health and Environment contracts with some local health departments to carry out inspections.

Appearing in support of SB 584 were a representative of the Kansas Farm Bureau and Senator Derek Schmidt. Submitting written testimony in opposition was a representative of the Salina-Saline County Health Department. Appearing in opposition to the bill was the Director of Operations for LL&G, Inc., which operates 17 restaurants in Kansas. Appearing or submitting written testimony as neutral on the transfer were representatives of the Departments of Health and Environment and Agriculture, the City of Wichita, and the Kansas Restaurant and Hospitality Association.

The Senate Committee amendments were technical changes to delay the date of the actual transfer from July 1 to October 1 of 2008.

The House Committee on Agriculture and Natural Resources amended the bill (effective upon publication in the *Kansas Register*) to clarify that a hotel offering complimentary food service would not have to have a food service license separate from the lodging establishment license. This amendment would not exempt these food service establishments from inspection or regulation. In addition, the House Committee amended the bill to clarify the cooperation on investigations of food borne illnesses between KDA and KDHE, including making KDHE the lead agency for public health matters when human illness or disease occurs. Other amendments were technical in nature.

The fiscal note on the original bill states that the KDHE indicates that there are currently 38.00 FTE positions in the two programs (food safety and lodging). Of these, there are 20.00 food safety FTE positions and 4.00 lodging inspector FTE positions who would need to be transferred to the KDA. The remaining unclassified temporary positions would be terminated if they were not requested by KDA as part of the transfer, including two program managers and two senior administrative assistants. The remaining 10.00 FTE positions, if not transferred, would need to be reassigned or laid off.

All expenditures for the food safety program are budgeted from the Food Inspection Fee Fund which receives annual license fees paid by food and lodging facilities. The 2007 Legislature added \$246,616 from the State General Fund and 4.00 FTE positions for lodging inspections, so that amount added to the estimated expenditure for FY 2008 of \$2,169,241 makes a total program cost estimate for FY 2008 of \$2,415,857.

The KDA did not supply any information regarding the number of positions or funding required because the agency did not know the specific budget for the program that is currently

operating at KDHE. Any fiscal effect resulting from the passage of this bill is not accounted for in *The FY 2009 Governor's Budget Report*.