

SESSION OF 2009

SUPPLEMENTAL NOTE ON SENATE BILL NO. 203

As Amended by Senate Committee of the Whole

Brief*

SB 203 would add and clarify authority of the Secretary of Agriculture to administer and enforce provisions of laws relating to the Food Service and Lodging Act and to other food safety laws.

The bill would give new authority to the Secretary to inspect every lodging establishment at any reasonable time in the state. The Secretary could suspend or revoke the license of the establishment for failure to comply with the standards after written notice and with at least 10 days to comply. In addition, the Secretary would be authorized to receive lodging and inspection reports from qualified individuals, private entities, or public entities to determine compliance. The Secretary also would be given authority to promulgate rules and regulations necessary to receive these inspection reports. The bill would require the Secretary to promulgate the new rules and regulations on or before July 1, 2010.

In addition, the bill would give the Secretary authority to order that a licensed entity cease and desist after notice and opportunity for a hearing when any person allegedly has engaged in or is engaging in any act or practice constituting a violation of the Food Service and Lodging Act. The hearing would be conducted in accordance with the Kansas Administrative Procedure Act. This same authority would be given to the Secretary for all other food safety programs for which the Secretary is responsible.

*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>

With respect to food processing plants or retail food stores, the Secretary would be given specific authority to temporarily suspend licenses of these entities if it is found that they endanger the public health or safety. Temporary license suspension could not last for more than 90 days. After such time, the license would need to be reinstated unless the Secretary has permanently suspended or revoked the license after notice and opportunity for a hearing.

The bill would exempt food service establishments from Kansas Department of Agriculture licensure if they are licensed, permitted, or registered by the Kansas Department of Health and Environment pursuant to any other law. In addition, persons who prepare, serve, or sell food for the sole purpose of soliciting funds to be used for community projects, educational and youth activities, or humanitarian purposes would not be required to obtain a food service establishment license regardless of the frequency or number of times food service is offered.

Current law would be clarified to allow the Secretary to deny, suspend, revoke, refuse to renew or modify the license to operate a food service establishment, a lodging establishment or food vending machines, after notice and opportunity for a hearing in accordance with the provisions of the Kansas Administrative Procedure Act, if the licensee has failed to comply with the applicable standards or has failed to comply with any provision or requirement of the Kansas Food Service and Lodging Act or any rule or regulation adopted under that Act.

Finally, the bill would correct an error to set the fee for a duplicate license, when a food service establishment license is lost or destroyed, at \$5.

Background

This bill was introduced at the request of a spokesperson for the Kansas Department of Agriculture. At the hearing on

the bill, one proponent was a spokesperson from the agency who indicated that after the 2008 transfer of all duties to inspect food service and lodging facilities, the agency recognized that there was a need to make adjustments to the statutes to allow the agency to fulfill its food safety mission. The introduced version of the bill reflects the adjustments which the agency believes need to be made. Also at the hearing on the bill was a spokesperson from the Kansas Restaurant and Hospitality Association who had an amendment and expressed support for the bill. The amendment would allow inspection reports conducted by private industry on hotels in each particular chain to be provided to the agency for inspection information. There were no opponents to the bill at the hearing.

The Senate Committee on Agriculture amended the bill to permit private inspection reports on lodging establishments to be sent to the agency for its use, exempt those persons soliciting funds by providing food service for community purposes from food service establishment licensing requirements, and eliminate unnecessary language in the portion of the bill which dealt with the inspection of food service activities when the primary license, permit, or registration is issued by the Kansas Department of Health and Environment.

The bill was amended by the Senate Committee of the Whole to require the Secretary of Agriculture to promulgate rules and regulations on or before July 1, 2010.

The fiscal note on the original bill indicates that the Kansas Department of Agriculture is already performing the functions related to lodging establishments, currently authorized by language in appropriation bills. The Department of Health and Environment would not be affected by SB 203. The fee increase authorized by the bill is expected to raise a negligible amount of revenue.