

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairperson Ron Highland at 3:30 pm on Monday, March 16, 2020, in room 582-N of the Capitol.

All members were present except:

Representative Sydney Carlin – Excused

Committee staff present:

Heather O'Hara, Legislative Research Department

James Fisher, Legislative Research Department

Jessie Pringle, Office of Revisor of Statutes

John Willey, Committee Assistant

Kyle Hamilton, Office of Revisor of Statutes

Conferees appearing before the Committee:

Farah Ahmed, State Epidemiologist, Kansas Department of Health and Environment

John Donley, Kansas Farm Bureau

Stephanie Eckroat, Executive Director, Kansas Dairy Association

Samuel MacRoberts, Litigation Director & General Counsel, Kansas Justice Institute

Tucker Stewart, Kansas Livestock Association

Kenny Titus, Chief Legal Counsel, Kansas Department of Agriculture

Others in attendance:

[See Attached List](#)

Chair Highland asked the committee to review the minutes of the 09, 10, 11, & 12 March 2020 meetings.

Representative Newland moved that the minutes be approved as written. Representative Thompson seconded the motion. The committee approved the minutes.

Hearing on: SB308 — Allowing the on-farm retail sale of raw, unpasteurized milk so long as certain labeling and advertising requirements are met.

The Chair opened the Hearing on **SB308** at 4:28pm.

Kyle Hamilton, Assistant Revisor, Office of The Revisor of Statutes, provided an overview of **SB308** and the statutes that it affects. ([Attachment 1](#)) There is a Fiscal Note for **SB308**.

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CONTINUATION SHEET

MINUTES of the Committee on Agriculture at 3:30 pm on Monday, March 16, 2020, in room 582-N of the Capitol.

PROPONENTS:

Kenny Titus, Chief Legal Counsel, Kansas Department of Agriculture (KDA), appeared before the Committee in support of **SB308**. ([Attachment 2](#)) **SB308**, as amended by the Senate, would amend the laws regulating milk, cream and dairy products (the "Dairy Law") so that the retail sale of raw milk and milk products on the farm may be done if the product contains the prescribed warning label stating "This product contains raw milk that is not pasteurized" or an equivalent warning. Further, any advertisement of such milk or milk products must state that the products are either "raw" or "unpasteurized". The Senate also made several other technical changes to the bill.

This bill was introduced because, pursuant to K.S.A 65-771(cc), Kansas law previously prohibited the off-farm advertisement of raw milk and milk products. However, as a result of Mark Bunner, et al. v. Mike Beam-Secretary of the Kansas Dept. of Ag., filed last year in Shawnee County District Court, the portion of the law limiting the advertisement of raw milk was struck down as unconstitutional. Therefore, KDA supports this bill, as amended, because changes to the law regarding raw milk sales are necessary to remove the unconstitutional portions of the Dairy Law.

Mr Titus responded to questions from the Committee.

Farah Ahmed, State Epidemiologist, Kansas Department of Health and Environment (KDHE), appeared before the Committee in support of **SB308**. ([Attachment 3](#)) The KDHE Secretary, under K.S.A. 65-101, has the authority to investigate the causes and prevent the spread of diseases. Under that authority, KDHE investigates reports of food-borne illnesses. Between 2017 and 2019, of the food-borne illness complaints investigated by KDHE, we had 54 cases that reported consuming unpasteurized milk or an unpasteurized milk product. Because of the inherent risk in consuming unpasteurized milk products, KDHE recognizes the need to include safety information in the labeling and advertising of these products. KDHE strongly supports amending **SB308** to include language that clearly states that consuming raw milk could cause a food-borne illness.

Ms Ahmed responded to questions from the Committee.

John Donley, Kansas Farm Bureau, appeared before the Committee in support of **SB308**. ([Attachment 4](#)) Kansas Farm Bureau policy supports "consumer friendly, science-based labeling of agricultural products that provide consumers with useful information concerning the ingredients and nutritional value." **SB308** is an attempt to provide the consumers with science-based information for them to make an informed decision.

Samuel MacRoberts, Litigation Director & General Counsel, Kansas Justice Institute (KJI), appeared before the Committee in support of **SB308**. ([Attachment 5](#)) KJI partnered with the Bunnars to end the government's ban on speech. The Kansas Attorney General eventually agreed the prohibition on speech

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MINUTES of the Committee on Agriculture at 3:30 pm on Monday, March 16, 2020, in room 582-N of the Capitol.

was "plainly unconstitutional." Today, thanks to the Bunnars for standing up for what they believed in, the First Amendment casts its light beyond their gates. After all these years, they finally have the right to talk about raw milk. As this Committee is aware, government regulation of labels or advertisements implicates the free speech clauses of the United States and Kansas Constitutions.

Mr MacRoberts stood for questions from the Committee.

Tucker Stewart, Kansas Livestock Association (KLA), appeared before the Committee in support of **SB308**. ([Attachment 6](#)) The bill, as amended by the Senate, would require the labels and advertisements of unpasteurized milk to state the product is raw or unpasteurized. KLA supports the accurate labeling of raw unpasteurized milk but believes the bill must contain disclaimer language necessary to warn consumers about the risks of consuming unpasteurized milk. Currently in Kansas, unpasteurized milk may not be sold in retail stores and is only allowed to be sold on the farm. This bill is in response to a recent court case that struck down the prohibition of advertising raw milk sales except on the farm premise.

Mr Stewart responded to questions from the Committee.

Written Only Proponent Testimony was received from:

- Alexia Kulwicz, Executive Director, Farm to Consumer Legal Defense Fund ([Attachment 7](#))
- Donn Teske, President, Kansas Farmers Union ([Attachment 8](#))

NEUTRALS:

Stephanie Eckroat, Executive Director, Kansas Dairy Association, appeared before the Committee as a neutral of **SB308**. ([Attachment 9](#)) The proposed bill is very vague as to what possible consequence there are from consuming raw milk. Unfortunately, many people in our society rely solely on social media and not science when it comes to making food choices. Improper labeling and uninformed decision making is a recipe for disaster when it comes to raw milk. In addition, there are absolutely nothing in place to regulate or trace those producing and selling raw milk. Traceability of our food should be made a priority when it involves the health and safety of our population.

Ms Eckroat responded to questions from the Committee.

There were no Opponents of **SB308**.

The Chair closed the Hearing on **SB308** at 5:22pm.

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Final action on bills previously heard

The Chair called the Committee to work **SB270 - Allowing water rights that were certified after 2009 to be placed in multi-year flex accounts.**

Kyle Hamilton, Assistant Revisor, Office of The Revisor of Statutes, provided a review of **SB270**.

The Chair opened debate on **SB270** and asked if there were any amendments. None was heard.

*Representative Smith moved to favorably pass **SB270**. Representative Blex seconded the motion. The motion passed on a voice vote.*

The Chair adjourned the meeting at 5:26pm.