

2021 Kansas Statutes

65-656. **Same; definitions.** For the purpose of this act:

- (a) "Secretary" means the secretary of agriculture or the secretary's authorized representatives.
- (b) "Person" means an individual, partnership, governmental entity, corporation, or association of persons.
- (c) "Food" means: (1) Articles used for food or drink for humans or other animals; (2) chewing gum; and (3) articles used for components of any such article.
- (d) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; (2) articles intended for use in diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and (4) articles intended for use as a component of any article specified in paragraph (1), (2), or (3); but does not include devices or their components, parts or accessories. The term "drug" shall not include amygdalin (laetrile).
- (e) "Device," except as used in subsection (j) of K.S.A. 65-657, subsection (f) of K.S.A. 65-665, subsections (c) and (o) of K.S.A. 65-669, and subsection (c) of K.S.A. 65-671, and amendments thereto, means instruments, apparatus and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals or to affect the structure or any function of the body of humans or other animals.
- (f) "Cosmetic" means: (1) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleaning, beautifying, promoting attractiveness or altering appearance; and (2) articles intended for use as a component of any such articles, except that such term shall not include soap.
- (g) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary or any supplement to any of them.
- (h) "Label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this act that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.
- (i) "Immediate container" does not include package liners.
- (j) "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrappers or accompanying such article.
- (k) "Advertisement" means all representations disseminated in any manner or by any means other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.
- (l) "New drug" means: (1) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a

material time under such conditions. The term "new drug" shall not include amygdalin (laetrile).

(m) "Contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(n) "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is a "pesticide" within the meaning of the agricultural chemicals act, K.S.A. 2-2202, and amendments thereto, and which is used in the production, storage or transportation of raw agricultural commodities.

(o) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(p) "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures, or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food, to be safe under the conditions of its intended use. "Food additive" does not include: (1) A pesticide chemical in or on a raw agricultural commodity; (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; (3) a color additive; or (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the food additive amendment of 1958, pursuant to the federal act.

(q) (1) "Color additive" means a material which: (A) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source; or (B) when added or applied to a food, drug or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act.

(2) The term "color" includes black, white and intermediate grays.

(3) Nothing in this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(r) "Imitation" means any article made in the semblance of another, consisting of similar or dissimilar ingredients and being capable of being substituted for the imitated article without the knowledge of the consumer.

(s) "Federal act" means the federal food, drug and cosmetic act, title 21 U.S.C. § 301 et seq.; 52 Stat. 1040 et seq.

(t) "Department" means the Kansas department of agriculture.

(u) "Distribution" means the provision of food, drug, cosmetic or device to another person and includes selling, offering for sale, giving, supplying, transporting, applying and dispensing.

(v) "Food establishment" means any place in which food is prepared, served or offered for

sale or service on the premises or elsewhere. "Food establishment" does not include roadside markets that offer only whole fresh fruits, nuts and vegetables for sale. "Food establishment" includes, but is not limited to:

(1) Eating or drinking establishments, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, tea rooms, grills, sandwich shops, soda fountains, taverns, private clubs, roadside stands, industrial-feeding establishments, catering kitchens, commissaries and any other private, public or nonprofit organizations routinely serving food; and

(2) grocery stores, convenience stores, bakeries and locations where food is provided for the public with or without charge.

(w) "Food processing plant" means a commercial operation that processes or stores food for human consumption and provides food for distribution to other business entities at other locations, including other food processing plants and food establishments. "Food processing plant" does not include any operation or individual beekeeper that produces and distributes honey to other business entities if the producer does not process the honey beyond extraction from the comb.

(x) "Food vending machine" means any self-service device, which, upon payment, dispenses unit servings of food, either in bulk or in packages. Such device shall not necessitate replenishing between each vending operation. "Food vending machine" does not include any vending machine dispensing only canned or bottled soft drinks or prepackaged food that does not require temperature control for safety.

(y) "Food vending machine company" means any person in the business of operating and servicing food vending machines.

(z) "Location" means a physical address, or absent an address, the geographical area within 300 feet of a food establishment or food processing plant. In the case of a mobile food establishment housed in a trailer, such trailer shall be considered a food establishment with its own location. In the case of a mobile food establishment that is not housed in a trailer, the equipment used for storage, preparation or offering of food shall be considered a food establishment with its own location.

(aa) "Municipality" means any city or county of this state.

(bb) "Processing" means the handling of a food, drug, cosmetic or device, including the production, manufacturing, packaging, packing and labeling of such item.

(cc) "Sample" means a small quantity of food and does not include a meal or entree.

(dd) "Storage" means holding for distribution or processing.

History: L. 1953, ch. 286, § 2; L. 1965, ch. 377, § 1; L. 1967, ch. 338, § 1; L. 1974, ch. 352, § 97; L. 1978, ch. 239, § 13; L. 2010, ch. 72, § 6; L. 2012, ch. 145, § 16; July 1.