

There is hereby levied an assessment upon corn marketed through commercial channels in the state of Kansas. The corn commission shall set the assessment at a rate of not more than ~~five~~ 10 mills per bushel. There is hereby levied an assessment upon soybeans marketed through commercial channels in the state of Kansas. The soybean commission shall set the assessment at a rate of not more than ~~20 mills per bushel~~ *one-half of 1% of the net market price received by the grower*. There is hereby levied an assessment upon wheat marketed through commercial channels in the state of Kansas. The wheat commission shall set the assessment at a rate of not more than ~~40~~ 20 mills per bushel. There is hereby levied an assessment upon sunflowers marketed through commercial channels in the state of Kansas. The sunflower commission shall set the assessment at a rate of not more than ~~seven and one-half mills per bushel (\$0.03~~ \$0.06 per cwt). Any commission shall not change the assessment rate, either to increase or reduce, more than once a year. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. Under the provisions of this act, no corn, grain sorghum, soybeans, wheat or sunflowers shall be subject to the assessment more than once. The commission shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon the payment of such assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such assessment, except a refund shall not be issued unless the amount of the refund is \$5 or more. Within one year after any and all sales during such period the grower may upon submission of a request therefor to the commission, obtain a refund in the amount of the assessments deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the assessments which need not be verified.

(b) The commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended by the commission in the administration of this act and for the payment of all claims growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such assessment. In the case of a lien holder who is a first purchaser as defined in this act, the assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the corn, grain sorghum, soybeans, wheat or sunflowers are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such corn, grain sorghum, soybeans, wheat or sunflowers. The assessment shall be deducted and paid as provided in this section whether such corn, grain sorghum, soybeans, wheat or sunflowers are stored in this or any other state.

(c) Any corn, grain sorghum, soybean, wheat or sunflowers acquired by a grower as defined in K.S.A. 2-3001, and amendments thereto, under the provisions of any federal program shall be subject to the provisions of this section.

(d) ~~No assessments for soybeans shall be collected pursuant to subsection (a) while the national checkoff program for soybeans, established pursuant to public law 101-624, remains in effect. Collection of assessments pursuant to subsection (a) shall be reinstated upon the withdrawal of the national checkoff program for soybeans, established pursuant to public law 101-624. No assessments for any commodity shall be collected pursuant to subsection (a) while a national checkoff program for that commodity remains in effect. Collection of assessments pursuant to subsection (a) shall be reinstated upon the withdrawal of a national checkoff program for that commodity.~~

Sec. 5. K.S.A. 2-3005 and K.S.A. 2007 Supp. 2-3002, 2-3003 and 2-3007 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 24, 2008.)

HOUSE BILL No. 2657

AN ACT concerning motorboats; relating to exhaust noise requirements; amending K.S.A. 2007 Supp. 32-1120 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2007 Supp. 32-1120 is hereby amended to read as follows: 32-1120. (a) ~~The exhaust of every internal combustion engine used on any motorboat on the waters of the state shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust.~~

~~The muffler system shall be in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.~~

~~(b) Muffler means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.~~

~~(c) A motorboat operating on the waters of the state shall have an exhaust water manifold or a factory type muffler installed on the engine.~~

~~(d) A person shall not operate or give permission for the operation of any motorboat in or upon the waters of this state if the motorboat is equipped with an altered muffler, muffler cutout, muffler bypass or any other device designed or installed so that it can be used continually or intermittently to bypass any muffler or muffler system installed on the motorboat, or to reduce or eliminate the effectiveness of such a muffler or muffler system.~~

~~(e) A motorboat shall not be operated on the waters of this state under any condition or in any manner whereby the motorboat exhaust noise emits a sound level in excess of 86 92 decibels on the "A" weighted scale, when measured from a distance of 50 feet or more from the motorboat, as prescribed in society of automotive engineers standards, SAE J34 and when subjected to a stationary sound level test as prescribed by SAE J2005.~~

~~(f) No person shall remove, alter or otherwise modify in any manner a muffler or muffler system installed on a motorboat to prevent the muffler or muffler system from being operated in accordance with this statute.~~

~~(g) (b) The provisions of subsections (c) through (e) subsection (a) shall not apply to motorboats officially registered and competing in or while on trial runs 48 hours immediately preceding a regatta, race, marine parade, tournament or exhibition which has been authorized or permitted by the department.~~

~~(h) A law enforcement officer who has reason to believe a motorboat is being operated in violation of the noise levels established in this section may direct the operator of the motorboat to submit to an on-site test to measure noise level. An operator of a motorboat who receives a request from a law enforcement officer pursuant to this section shall allow the motorboat to be tested. If, based on a test to determine the noise level of a motorboat, the noise level of the motorboat exceeds the decibel levels established in this section, the law enforcement officer shall direct the operator of the motorboat to take immediate and reasonable measures to correct the violation, including, but not limited to, terminating the voyage of the motorboat until the motorboat no longer operates in violation of this section.~~

~~(c) Any officer authorized to enforce the provisions of this section who has reasonable suspicion to believe that a motorboat is not in compliance with the noise levels established in this section may direct the operator of such motorboat to submit the motorboat to an on-site test to measure noise levels, with the officer on board if such officer~~

chooses, and the operator shall comply with such request. The owner of any motorboat which violates any provision of this section shall have sixty days from the date of the violation to bring the motorboat into compliance with the provisions of this section. Thereafter, it shall be the owner's responsibility to have the motorboat tested by the department. If the motorboat fails such test, the motorboat shall not be operated on the waters of this state until the department certifies that the motorboat is in compliance with the provisions of this section. Failure to comply with a request or direction of an officer made pursuant to this subsection is a class C misdemeanor. Nothing in this section shall be construed to limit the officer's ability to enforce this section and to issue citations to the owner or operator of any motorboat during the sixty-day compliance period.

Sec. 2. K.S.A. 2007 Supp. 32-1120 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register April 24, 2008.)

SENATE BILL No. 584

AN ACT concerning the Kansas department of agriculture; transferring certain powers and duties of the secretary of the department of health and environment to the secretary of agriculture; food service establishments, licensure; amending K.S.A. 36-501, 36-502, 36-504, 36-506, 36-507 and 36-510 and K.S.A. 2007 Supp. 36-503, 36-503, as amended by section 10 of 2008 Senate Bill No. 584, 36-515b and 74-592 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Except as otherwise provided by this act, on and after October 1, 2008, all of the powers, duties and functions of the department of health and environment concerning food service and lodging are hereby transferred to and conferred and imposed upon, the secretary of agriculture.

(b) Except as otherwise provided by this act, on and after October 1, 2008, the secretary of agriculture shall be the successor in every way to the powers, duties and functions of the department of health and environment concerning food service and lodging in which the same were vested prior to October 1, 2008. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of agriculture shall be deemed to have the same force and effect as if performed by the department of health and environment, in which such powers, duties and functions were vested prior to October 1, 2008.

(c) All rules and regulations of the department of health and environment concerning food service and lodging in existence on October 1, 2008, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture until revised, amended, revoked or nullified pursuant to law.

(d) All orders and directives of the department of health and environment concerning food service and lodging in existence on October 1, 2008, shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture until revised, amended or nullified pursuant to law.

(e) The division of food safety shall be a continuation of the department of health and environment concerning food service and lodging.

New Sec. 2. (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this

act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

New Sec. 3. On and after October 1, 2008, the secretary of agriculture shall succeed to whatever right, title or interest the department of health and environment has acquired in any real property in this state concerning the functions transferred by this act, and the secretary of agriculture shall hold the same for and in the name of the state of Kansas. On and after October 1, 2008, whenever any statute, contract, deed or other document concerns the power or authority of the department of health and environment or the secretary of the department of health and environment concerning the functions transferred by this act to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

New Sec. 4. (a) Except as otherwise provided in this act, on October 1, 2008, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the department of health and environment concerning food service and lodging which are transferred by this act, or who become a part of the Kansas department of agriculture, or the powers, duties and functions of which are transferred to the Kansas department of agriculture, and who, in the opinion of the secretary of agriculture, are necessary to perform the powers, duties and functions of the Kansas department of agriculture, shall be transferred to, and shall become officers and employees of the Kansas department of agriculture.

(b) Officers and employees of the department of health and environment transferred by this act shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the department of health and environment prior to the date of transfer.

New Sec. 5. (a) On and after October 1, 2008, the Kansas department of agriculture shall serve as custodian for all agency records, as defined by the Kansas open records act, related to article 5 of chapter 36 of the Kansas Statutes Annotated, from which authority is transferred from the department of health and environment to the secretary of agriculture. The department of health and environment shall continue to serve as custodian, as defined by the Kansas open records act, for all agency records related to article 5 of chapter 36 of the Kansas Statutes Annotated generated prior to October 1, 2008. A request for records generated prior to October 1, 2008, pursuant to the Kansas open records act, may be made to the Kansas department of agriculture and it shall be forwarded to the department of health and environment upon receipt.

(b) The department of health and environment shall immediately make available to the Kansas department of agriculture upon request any records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the department of health and environment related to those functions transferred to the secretary of agriculture.

New Sec. 6. On October 1, 2008, the balances of all funds or accounts thereof appropriated or reappropriated for the de-

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