



Farmers Market/D2C Food Sales

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Today we're going to talk about...

- Why There are Food Safety Requirements
- KDA's Compliance Approach
- Who Inspects What
- Licenses and Exemptions
- Egg Sales
- US FDA Produce Safety Rules



Why are there food safety requirements?

2011 CDC Foodborne Illness Estimates for the U.S.
each year:

- 48 million cases
- 128,000 hospitalizations
- 3,000 deaths

2012 Cost Estimate (Journal of Food Protection)

- \$77 billion

The Real Impact of Foodborne Illness



- **Grayson 2014-2016**

- Died from E. coli at age 2
- Caused HUS, a life-threatening kidney disease
- Illness lasted 5 days
- Undetermined source



- **Arlene**

- Diagnosed in 2006 with Salmonella and Clostridium difficile
- 8-30 bowel movements a day
- Restaurant egg dish



- **Michael 2004**

- Died from Listeria monocytogenes
- Infected through the placenta
- Emergency C-section at 30 weeks
- Lettuce suspected

•Source:StopFoodborneIllness.org

The Real Impact of Foodborne Illness



“Lauren Beth, age six years, ten months and ten days, died in my arms while on a life support system at San Diego's, highly respected, Children's Hospital, three days after Christmas on December 28th, 1992. Although at the time we did not know Lauren's true killer, we would soon come to the brutal reality of E. coli O157:H7.

For those of you not familiar with the carnage that E. coli O157:H7 can provide. It is an experience that none of us are prepared to endure, much less observe! Her struggle was valiant, but brutal. After excruciating pain, all of her main organs falling victim to this deadly toxin that is E. coli O157:H7. Three heart attacks, the first of which I was left helpless to witness. Her brain waves were no longer active. Her body was tormented and beaten. Her kidneys, liver and heart were ravaged. Lauren fell into a coma and was taken from my arms forever.” – Roni (Lauren's Mother)

Botulism – Lancaster, Ohio, 2015

- Potato salad from home-canned potatoes
- 25 confirmed cases
- 25 hospitalized
- 1 death



KDA's Purpose

To serve, promote and grow the state's largest industry.

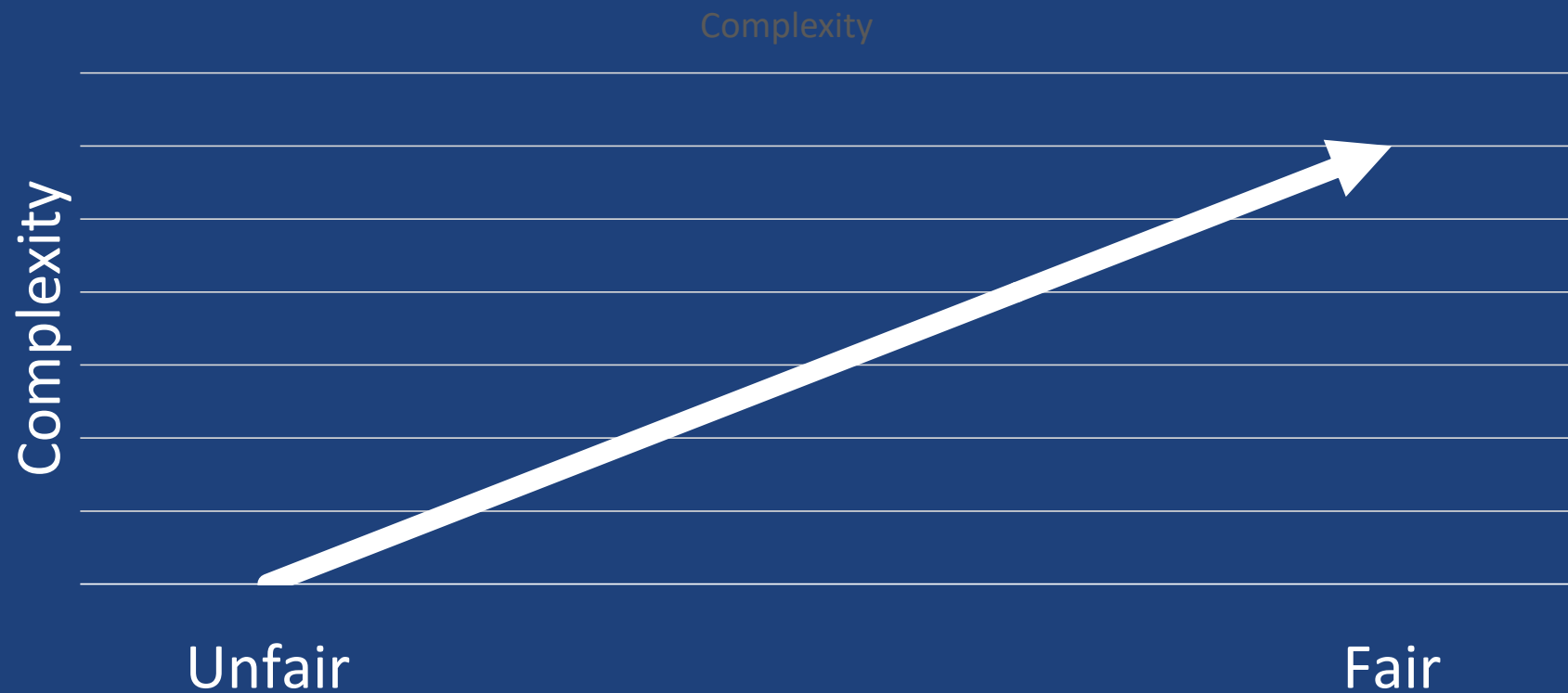


Compliance Approach

- Educate, Warn, Enforce
- Evaluate systems
- Encourage dialogue before, during, and after inspection



“Fair and Simple Rarely Meet”



Pop Quiz #1

Q. What component/s of potato salad require refrigeration?

- Eggs? **YES**
- Celery? **MAYBE**
- Potatoes? **YES**
- Mayo? **NO**

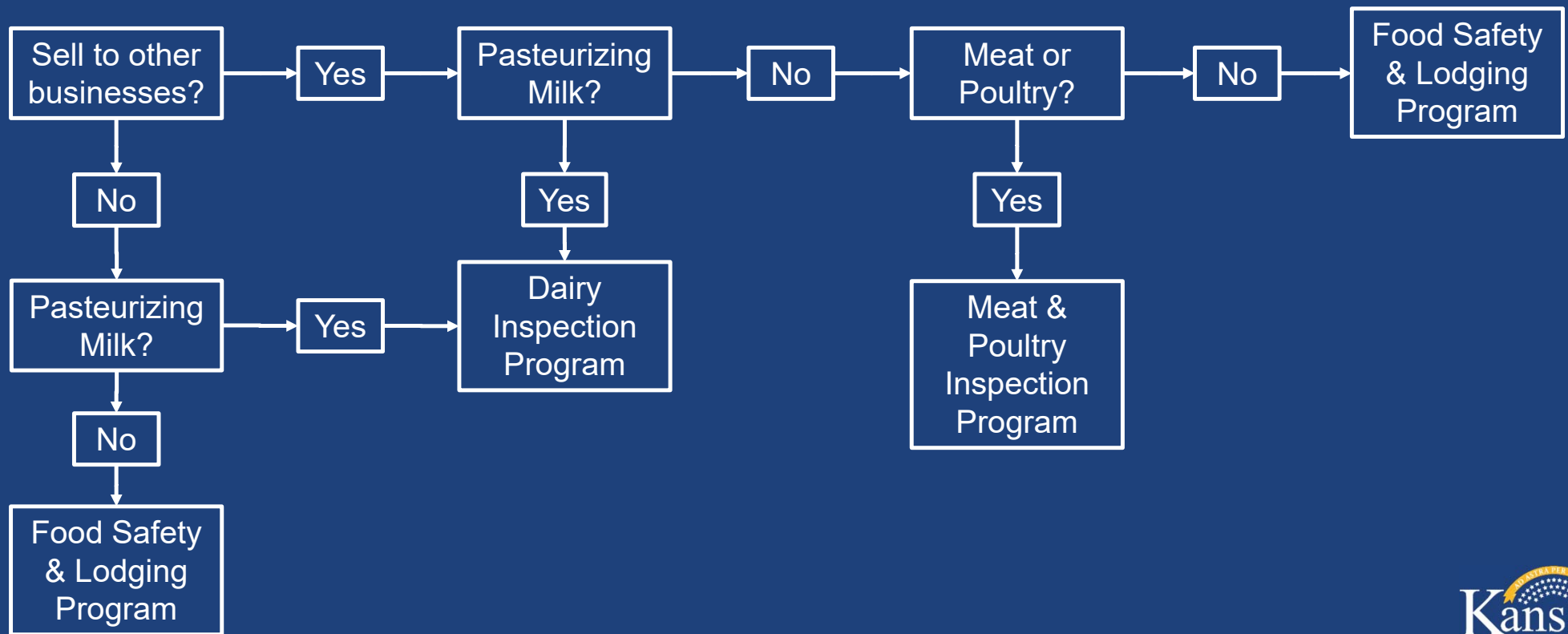


Pop Quiz #2

Q. What food has not been associated with a multi-state outbreak of *E. coli*?

- SoyNut Butter? 2021
- Sprouts? 2012, 2014, 2016, 2020
- Spinach? 2006, 2012, 2021
- Lettuce? 2010, 2011, 2018 (2), 2019, 2020, 2021
- Raw flour? 2016, 2019, 2021
- Mayo?

Simplified Flowchart



When is a License Required?

- When the product requires temperature control for safety (PHF/TCS) or specialized processing
- When the product is being wholesaled (further distribution)
- When the product is being sold to a licensed food establishment
 - Grocery
 - Convenience
 - Specialty Store
 - Bakery

The Kansas Department of Agriculture, Manhattan, Kansas
certifies

License Number : - Food Establishment

Manhattan, KS 66502

Owned by:
has met the requirements for
Licensing Under the Kansas Food, Drug and Cosmetic Act, KSA 65-619 et. seq.
and is hereby granted
Authority to operate as a **Food Establishment**

Under Business Registration Num

Size: Under 5,000 sq feet

Effective and Expiration Dates:
03-31-2017 03-31-2018

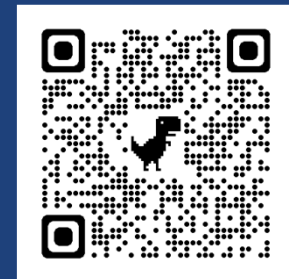
Jackie McClaskey
Jackie McClaskey
Secretary of Agriculture

NOTICE: THIS LICENSE IS NOT TRANSFERABLE
The Kansas Department of Agriculture, Food Safety and Lodging, 1320 Research Park Drive, Manhattan, KS 66502 (785)564-6733 agriculture.ks.gov

Sampling Exemption



- K.S.A. 65-689(d)(13) – No license for “A person who provides food samples, without charge, to promote, advertise or compliment the sale of food or associated equipment.”
- K.S.A 65-656(cc) – “‘Sample’ means a small quantity of food and does not include a meal or entrée.’
- Key Points:
 - Can’t charge for the sample
 - Must be a small amount of food
 - Must follow K.A.R. 4-28-33 sanitation/hygiene regulations



Six-Day Exemption

- K.S.A. 65-689(d)(6) – No license for “A person operating a food establishment for less than seven days in any calendar year”
- Key Points:
 - Must be 6 or fewer days in a year
 - “Person” includes partnerships
 - Must follow K.A.R. 4-28-33 sanitation/hygiene regulations
 - No wholesale/further distribution-only to the end consumer
 - No meat processing



Fundraising Exemption



- K.S.A. 65-689(d)(7) – No license for “A person who prepares, serves, or sells food for the sole purpose of soliciting funds to be used for community or humanitarian purposes or educational or youth activities.”
- Key Points:
 - No limit on days
 - K.A.R. 4-28-34 prohibits using funds to compensate food workers
 - K.A.R. 4-28-33 sanitation/hygiene regulations
 - No meat processing
 - Must post “Food Establishment is not subject to routine inspection”

Honey Exemption

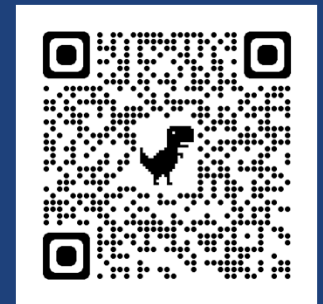


- KSA 65-656(w) “Food processing plant” does not include any operation or individual beekeeper that produces and distributes honey to other business entities if the producer does not process the honey beyond extraction from the comb.
- KSA 65-689(d)(4) No license for “A person who produces food for distribution directly to the end consumer, if such food does not require time and temperature control for safety or specialized processing, as determined by the secretary.”

Direct-to-Consumer (D2C) Exemption



- K.S.A. 65-689(d)(4) – No license for “A person who produces food for distribution directly to the end consumer, if such food does not require time and temperature control for safety or specialized processing, as determined by the secretary.”
- Key Points:
 - No specialized processing
 - Must follow K.A.R. 4-28-33 sanitation/hygiene regulations
 - No wholesale/further distribution: only to the end consumer



D2C Food Sales

Foods allowed to be prepared in a home kitchen and then sold without a license

- Foods that do not require temperature control for safety (non-PHF/TCS) or specialized processing
 - Baked goods*, candy, jelly*, etc.
 - *not all are exempt
 - Fresh, uncut produce
 - Others-may have to ask
- Sold only directly to the end consumer



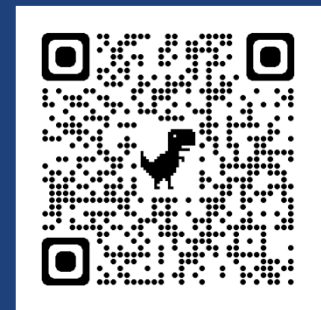
D2C Food Sales

Foods not allowed to be prepared in a home kitchen and then sold without a license?

- Foods that require temperature control for safety (PHF/TCS) or specialized processing
 - Cream pies, cheesecakes, salsas, BBQ sauce, cut melons, cut leafy greens, meat, poultry, sprouts, pickles, canned vegetables, etc.
- Cannot be sold to end consumer or to another person for resale without a license

Product Evaluation

- Process Authority can determine if product/formulation is:
 - Low Water Activity Food (D2C exempt)
 - Naturally High Acid Food (D2C exempt)
 - Formulated Acid Food (D2C exempt)
 - Acidified Food (License required)
 - Low-Acid Food (License required)
- One Example is the Kansas Value Added Foods Lab at K-State



D2C Exempt or Not???

- Frozen pie crusts
 - Exempt
- Dried pasta
 - Exempt
- Kombucha (or SCOBY)
 - License
- Tea mixes
 - Exempt
- Cookie mix kits (Dry)
 - Exempt
- Mustard
 - Product evaluation
- Infused vinegar
 - Exempt
- Infused oils
 - License
- Low-sugar jams/jellies
 - Product evaluation
- Microgreen/Shoots
 - Exempt-harvest cut only
- Lard
 - Exempt
- Bone Broth
 - Exempt



KDA-FSL Requirements

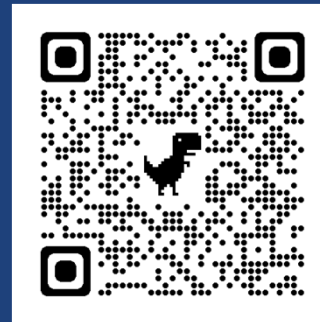
What is the goal?

- To keep food safe and extra stuff out

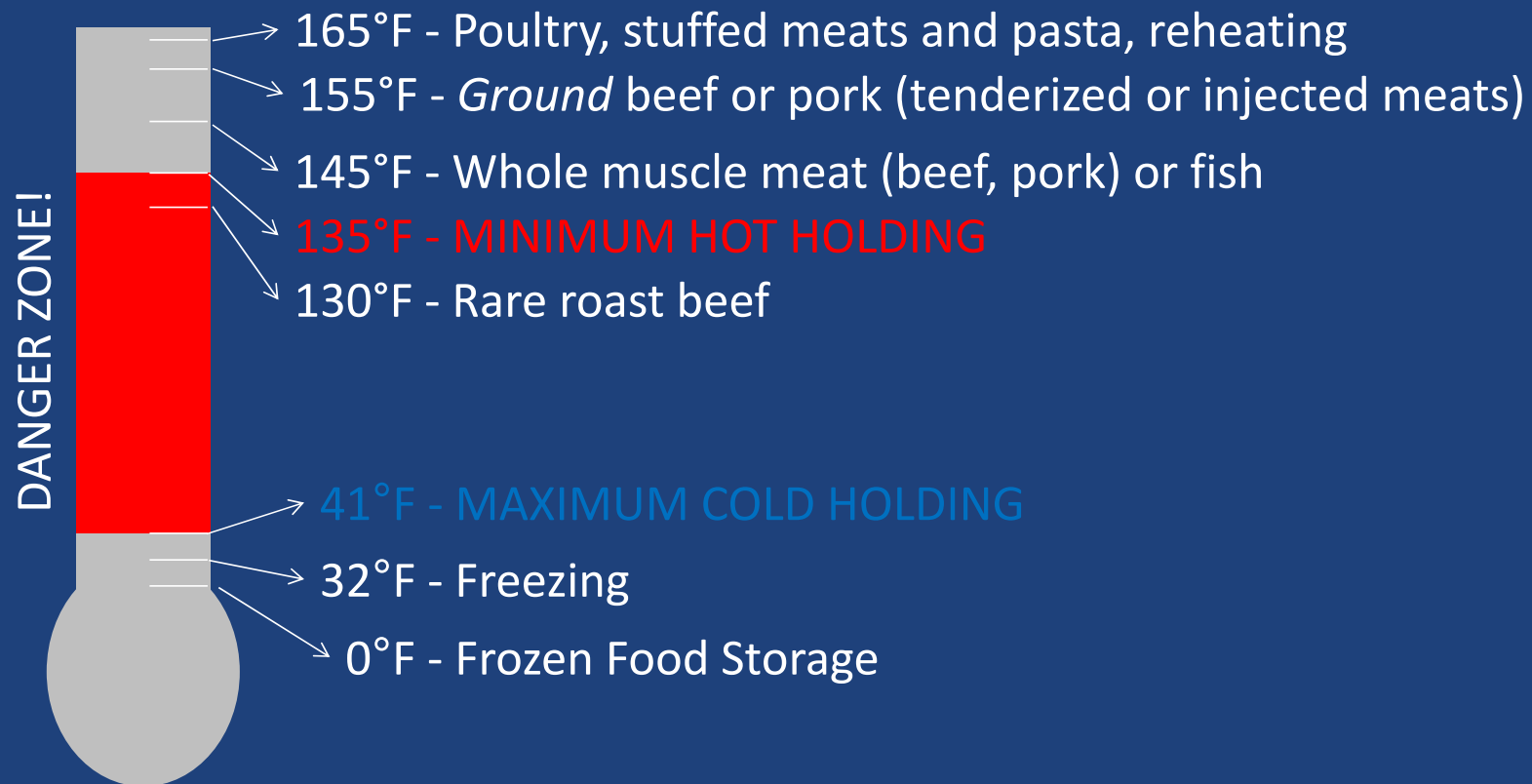


Exempt Food Requirements

- Critical Food Temperatures
 - Food Code
- Hygiene
 - KAR 4-28-33
- Sanitation
 - KAR 4-28-33

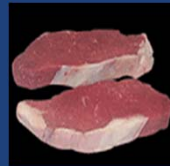


Critical Temperatures



Safe Cooking Temperatures

- 145°F - Intact Fish, Beef, Pork and Eggs



- 155°F - Non-intact Fish, Beef, Pork, Pooled Eggs



- 165°F - Poultry



KAR 4-28-33 Requirements - Handwashing

- No Bare-Hand-Contact (BHC) with Ready-to-Eat (RTE) foods
 - Gloves, tongs, deli tissue, toothpicks
- No sick employees – Vomiting, diarrhea, jaundice, sore throat w/ fever, uncovered cuts/wounds, Norovirus, Hepatitis A, *Shigella*, *E. coli*, *Salmonella* Typhi, Other *Salmonella*
- Proper handwashing
 - 100°F water
 - Soap
 - Paper towels
 - “Hands-free” spigot

Sing your
ABC's
twice!

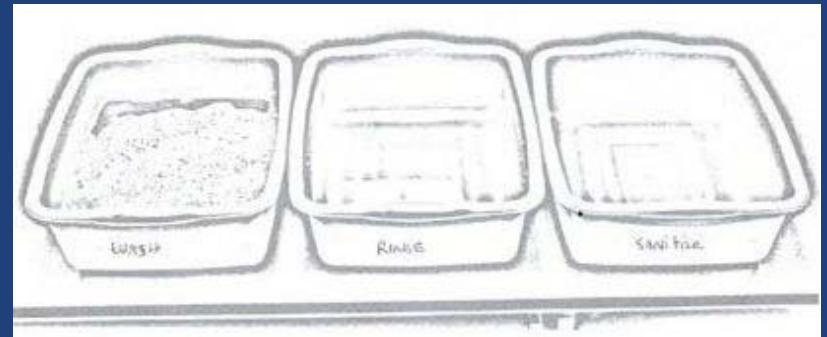


Temporary Handwashing



KAR 4-28-33 Requirements - Warewashing

- Clean and sanitize
- Three-compartment sink or Three Food-grade tubs
 - Wash
 - 110°F water and dish detergent
 - Rinse
 - 110°F clean water
 - Sanitize
 - 50-200 parts per million chlorine
 - One ounce (two tablespoons) of bleach in three gallons of water



KAR 4-28-33 Water and Wastewater

- Potable (drinking) water
- Waste water into the sanitary sewer (not the storm sewer or onto the ground)



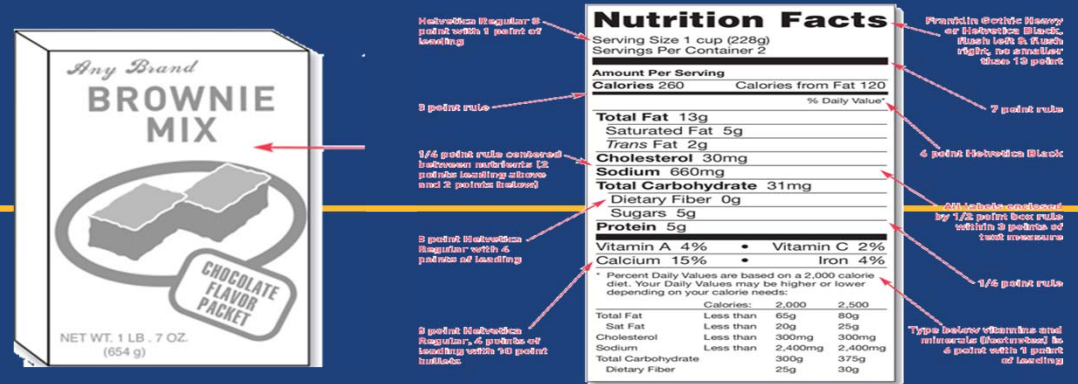
KAR 4-28-33 Contamination

- Protect food from the elements
- No animals in the area
- Enclosure suited to conditions
 - Rain
 - Overhead, floor
 - Flies, mice, etc.
 - Full screen enclosure or cease operations
 - Blowing dust
 - Full walled enclosure or cease operations



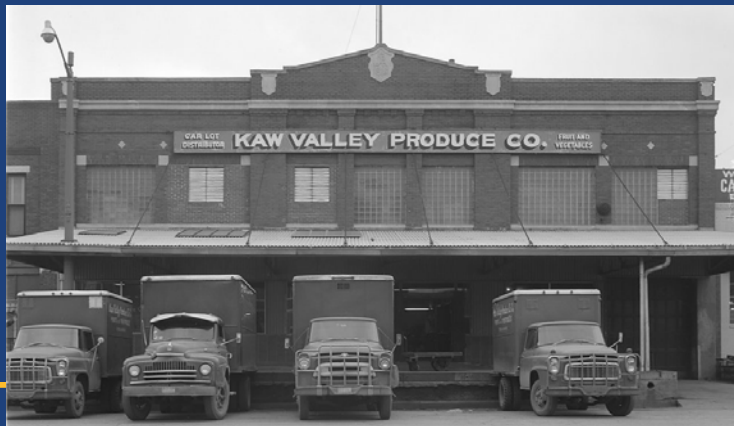
Labeling

- Common Name
- Contents
- Ingredients by Weight
- Name, Street Address, City, State, and Zip Code of Manufacturer
- Major Food Allergens
 - milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, soybeans, sesame (NEW in 2023)
- Nutrition Information (if required)
 - Health or Nutrient claims



License Types

- Food Establishment
 - Direct to the end consumer
- Food Processor
 - For further distribution-“wholesale”



How can I become licensed at my home?

- Separate kitchen
- Proper equipment for processes being used
- Proper storage areas
- Proper labeling for packaged products



Shared Kitchens

- Each operator who is required to be licensed must be licensed to operate at that location



Kansas Egg Law and Regulations

- KSA 2-2501 to 2-2513
 - Direct to consumer exemptions – Small and Very Small flocks
- KAR 4-11-2 to 4-11-15



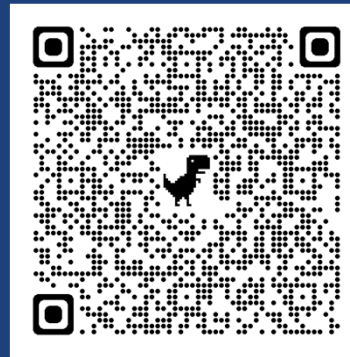
When is a license required?



- When more than 250 hens in the flock;
- When the eggs are being graded; or
- When the product is being sold to a licensed food establishment
 - Grocery
 - Convenience
 - Specialty Store
 - Bakery

Small Flock Exemption – 51-250 Hens

- Sell only directly to consumers
- Clean and wash eggs
- Prepackage eggs
- Label egg carton/container
 - “Ungraded”
 - Name and address
- Cartons may be reused if:
 - all brand markings and other identification are obliterated
 - carton is free of foreign materials
- Maintain eggs at a temperature of 45°F or below



Very Small Flock Exemption – 50 or fewer hens

- No requirements if:
 - Only direct to consumer
 - Ungraded
- KDA recommends following Small Flock requirements, especially refrigeration



Equipment for Exempt Egg Sales

- Refrigeration
 - 45°F or less
 - Temperature measuring device
 - Capacity/recovery



License Requirements

- \$5 License Fee
- Pay Inspection Fee – 3.5 mills per dozen (\$0.0035 or 0.35¢ per dozen) – about 1/3 of a penny per dozen
 - Egg Stamps - \$18.70 per 1,000 stamps

OR

- Quarterly Fee payment



Egg Stamps

- Egg Stamps - \$18.70 for 1,000 stamps
- One stamp covers the fee for one dozen eggs
- Many size and grade combinations available
- There is also a blank stamp



Quarterly Inspection Fees

- Complete Quarterly Report of Egg Inspection Fee
- Minimum \$15 per quarter
- \$5 per day penalty for late payment

| Qtr.# | Dates of Quarter | Due Date |
|-------|-------------------------|------------|
| 1 | January 1 - March 31 | April 30 |
| 2 | April 1 - June 30 | July 31 |
| 3 | July 1 - September 30 | October 31 |
| 4 | October 1 - December 31 | January 31 |

Which way should I pay the egg fees?

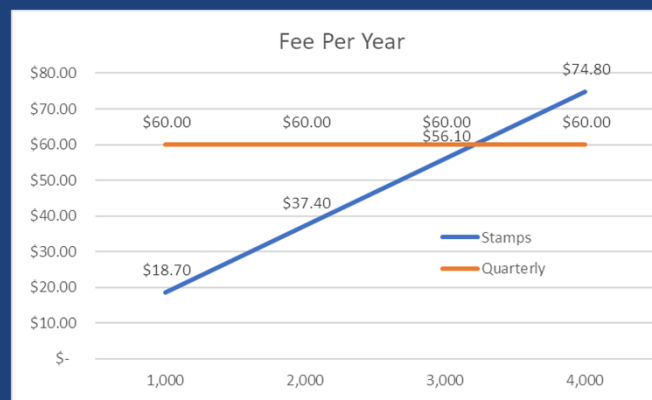
- In a quarter:

- 1,000 doz. is \$18.70 (stamps) or \$15 (Qtr Fees)
- 2,000 doz. is \$37.40 (stamps) or \$15 (Qtr Fees)



- In a year:

- 3,000 doz. is \$56.10 in stamps or \$60 (Qtr Fees)
- 4,000 doz. is \$74.80 (stamps) or \$60 (Qtr Fees)

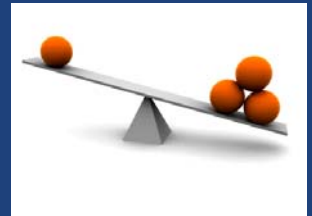


Which way should I pay the egg fees?

- 700 Dozen or fewer per Quarter = Stamps
- 800 Dozen per Quarter = a Tie
- 900 Dozen or more per Quarter = Quarterly fee
- 3,000 Dozen or fewer per Year = Stamps
- 3,200 Dozen per Year = a Tie
- 3,300 Dozen or more per Year = Quarterly fee

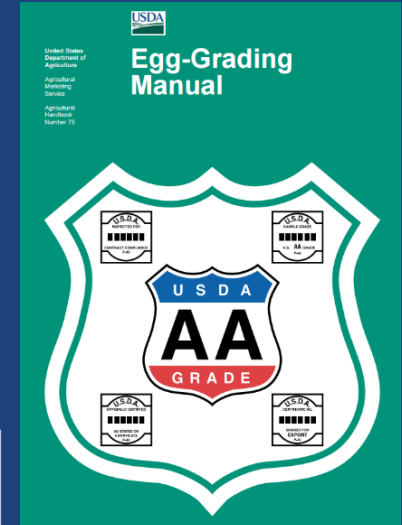
Notes: Production variability may alter the cutoffs

- Customer preferences may alter your choice



Grading

- Must meet Grade and Size requirements in USDA AMS 56 - United States Standards, Grades, and Weight Classes for Shell Eggs (Effective July 20, 2000)
- USDA Egg Grading Manual is very helpful
- No formal training is required.
- Only have to have USDA grader if using USDA Grade Shield.
- Only chicken eggs have grade/size standards
 - Use blank stamps for duck, goose, quail, etc.
 - Write variety in the blank



Produce Safety Rule

- Rules to keep produce safe
 - Does not include produce that is rarely consumed raw
- Directly covered:
 - Produce sales >\$29,245 3-year average
 - Keep records
- Qualified Exemption:
 - Food sales <\$584,908 3-year average; AND
 - >50% of sales to consumers/restaurants/grocery stores
 - Keep records



Key Elements

- Agricultural Water
- Biological Soil Amendments
- Sprouts
- Domesticated and Wild Animals
- Worker Training and Health and Hygiene
- Equipment, Tools and Buildings



Voluntary Produce Registry with KDA

- Please self-register with KDA: agriculture.ks.gov/PSR
 - Online or print version
 - Will help KDA and KSRE understand how the produce safety rule will affect KS growers so we can help farmers comply
 - Many will be exempt



Questions?

Kansas Department of Agriculture

Food Safety & Lodging

agriculture.ks.gov/fsl

KDA.FSL@ks.gov

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