

SENATE BILL No. 366

AN ACT concerning local governmental regulatory authority; relating to regulation of food labeling, food-related consumer incentive items, food distribution and food production; inspection of residential property; price controls on private residential or commercial property; regulation of employers with regard to employee scheduling; amending K.S.A. 12-16,120 and K.S.A. 2015 Supp. 12-16,130 and repealing the existing sections.

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

New Section 1. As used in sections 1 and 2, and amendments thereto:

(a) “Food” means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages or tobacco.

(b) “Food that is a menu item in vending machines” means food dispensed through a machine or other mechanical device that accepts payment.

(c) “Retail food establishment” or “food service operation” means any place in which food is served or is prepared on the premises for retail sale or service in a heated state or heated by the seller, mixed or combined by the seller for sale as a single item or sold with eating utensils provided by the seller and is intended for immediate consumption. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries, drive-in restaurants and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(d) “Food nutrition information” includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, sodium and allergen content of food. “Food nutrition information” also includes the designation of food as healthy or unhealthy.

(e) “Political subdivision” means political or taxing subdivisions of the state, including counties, townships, cities, school districts, authorities or other municipal or public corporations, agencies, boards, commissions, councils, committees, subcommittees and other subordinate groups or administrative units thereof, receiving or expending and supported, in whole or in part, by public funds.

(f) “Consumer incentive item” means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemats or other premium, prize or consumer product that is associated with a meal served by or acquired from a food service operation.

New Sec. 2. (a) The regulation of consumer incentive items and nutrition labeling for food and nonalcoholic beverages that are menu items in restaurants, retail food establishments or vending machines is reserved to the legislature and may be regulated only by legislation of statewide application enacted after the effective date of this act. The regulation of the provision of food nutrition information and consumer incentive items at food service operations and how food service operations are characterized are matters of general statewide interest that require statewide regulation, and rules and regulations adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules and regulations adopted under this act shall be applied uniformly throughout this state.

(b) The state of Kansas, and any political subdivision thereof, shall not do any of the following:

(1) Enact, adopt or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(2) condition any license, permit or regulatory approval upon the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(3) ban, prohibit or otherwise restrict food at food service operations based upon the food’s nutrition information or upon the provision or nonprovision of consumer incentive items;

(4) condition any license, permit or regulatory approval for a food

service operation upon the existence or nonexistence of food-based health disparities;

(5) where food service operations are permitted to operate, ban, prohibit or otherwise restrict a food service operation based upon the existence or nonexistence of food-based health disparities as recognized by the department of health, the institute of health or the centers for disease control;

(6) restrict the sale, distribution or serving of foods and nonalcoholic beverages that are approved for sale by the United States department of agriculture or other federal or state government agencies; or

(7) restrict the growing or raising of livestock or grain, vegetables, fruits or other crops grown or raised for food and approved for sale by the United States department of agriculture or other federal or state government agencies.

(c) Sections 1 and 2, and amendments thereto, shall not be interpreted as being more restrictive than any federal law or affecting in any manner the regulation of the nutrition labeling of food that is a menu item in restaurants, retail food establishments and vending machines pursuant to the federal food, drug and cosmetic act, 21 U.S.C. § 343(q)(5)(H).

(d) Nothing in sections 1 and 2, and amendments thereto, restricts a political subdivision, as defined herein, from owning or managing a food service facility and from purchasing and serving food products according to the Kansas food code and their own policies as long as those policies are not laws or ordinances restricting any other entity.

(e) Nothing in sections 1 and 2, and amendments thereto, shall be construed as limiting or restricting the zoning authority of a political subdivision authorized by article 7 of chapter 12 or article 29 of chapter 19 of the Kansas Statutes Annotated, and amendments thereto, or by any other provision of law.

(f) Nothing in sections 1 and 2, and amendments thereto, restricts a political subdivision, as defined herein, from creating and promulgating food nutrition information or food-based health disparity information, only in accordance with the United States department of agriculture dietary guidelines for Americans promulgated under 7 U.S.C. § 5341, as long as the information is not contained in a law or ordinance restricting any other entity.

(g) Nothing in this act restricts a political subdivision from financially participating in a food assistance program as long as that program operates in accordance with the United States department of agriculture dietary guidelines for Americans promulgated under 7 U.S.C. § 5341, and as long as the program is not contained in a law or ordinance restricting any other entity.

New Sec. 3. (a) No city or county shall adopt, enforce or maintain a residential property licensing ordinance or resolution which includes a requirement for periodic interior inspections of privately owned residential property for city or county code violations unless the lawful occupant has consented to such interior inspections. This subsection shall not apply to inspections of mixed-use residential and commercial property. This subsection shall not prohibit a city or county from conducting plan reviews, periodic construction inspections or final occupancy inspections as required by building permits.

(b) Any lawful occupant residing in privately owned residential housing located within the corporate limits of a city may request an inspection at any time by the city or, if the property is located in the unincorporated area of the county, by the county to determine code violations.

Sec. 4. K.S.A. 12-16,120 is hereby amended to read as follows: 12-16,120. (a) No political subdivision of this state, including, but not limited to, a county, municipality or township, shall enact, maintain or enforce any ordinance or resolution that would have the effect of controlling the amount of rent charged *or the purchase price agreed upon between the parties to the transaction for leasing private the lease or purchase of privately owned residential or commercial property.*

(b) This section shall not impair the right of any ~~local unit of government~~ *political subdivision* to manage and control *commercial or residential property in which such local unit of government political subdivision has a property an ownership interest.*

(c) *This section shall not impair the right of any owner of privately owned property to enter into a voluntary agreement with a political subdivision to agree to requirements that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for the lease or purchase of privately owned property in return for grants or incentives provided by the political subdivision to the owner of privately owned property.*

(d) *No political subdivision shall require any owner of privately owned property to agree to any requirements that would have the effect of controlling the amount of rent charged or the purchase price agreed upon between the parties to the transaction for the lease or purchase of privately owned property, as a condition for consideration or approval of:*

- (1) *Any building permit or plat; or*
- (2) *any request for a zoning regulation, boundary, classification or a conditional use permit, or for a change or variance in a zoning regulation, boundary, classification or a conditional use permit.*

Sec. 5. K.S.A. 2015 Supp. 12-16,130 is hereby amended to read as follows: 12-16,130. (a) No city, county or local government unit shall enact or administer any ordinance, resolution or law which requires an employer to:

- (1) Provide to such employer's employees any leave from work, either with or without pay, unless such leave is required by state or federal law;
- (2) pay compensation to such employer's employees for any leave from work unless payment of compensation for such leave is required by state or federal law;
- (3) pay compensation or wages at any rate higher than the minimum wage unless the payment of higher compensation or wages is required by state or federal law;~~or~~
- (4) offer an employee benefit other than those required by state or federal law; or
- (5) *alter or adjust any employee scheduling unless the alteration or adjustment is required by state or federal law.*

(b) Subsection (a) shall not impact, or apply to, requirements under state economic development incentive programs or city, county, local government or local economic development agency business attraction, retention or recruitment programs.

Sec. 6. K.S.A. 12-16,120 and K.S.A. 2015 Supp. 12-16,130 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*