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## Agricultural Marketing, Advocacy and Outreach

### Kansas Statutes Annotated

#### Chapter 2. Agriculture Article 38. Farmers' Markets

**2-3801. Farmers' market promotion act.** The provisions of K.S.A. 2021 Supp. 2-3801 through [2-3804](#), and amendments thereto, shall be known and may be cited as the Kansas farmers' market promotion act.

**History:** L. 2013, ch. 73, § 1; July 1.

**2-3802. Same; definitions.** As used in this act:

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

(b) "Farmers' market" means a common facility or area where producers or growers gather on a regular, recurring basis to sell fresh fruits, vegetables, meats and other farm products directly to consumers. "Farmers' market" includes, but is not limited to, short-term festivals, roadside stands or other agricultural product sales or other locations or any market, sales event or other related event, series of events or venue that advertises, promotes or uses the term "farmers' market" or any derivative thereof, as a part of the name of such market, sales event, or other related event or venue.

(c) "Farmers' market operator" means the person who promotes or manages the activities at a farmers' market registered under this act.

(d) "Participant" means any person who attends a farmers' market or who sells, purchases or consumes any products offered or sold at a farmers' market.

(e) "Secretary" means the secretary of agriculture or the secretary's authorized representative.

**History:** L. 2013, ch. 73, § 2; July 1.

**2-3803. Same; central registration of farmers' markets; secretary as registration authority.** (a) There is hereby established a central registration of farmers' markets which shall be maintained by the department. Such central registration of farmers' markets shall be for the purpose of encouraging and promoting farmers' markets across the state and shall assist the department in promoting Kansas agriculture by more efficiently connecting producers with consumers. Any farmers' market operator may register with the secretary on forms provided by the secretary. There shall be no charge for registration. The secretary shall maintain a list of such registered entities for dissemination to members of the public.

(b) The secretary shall be the registration authority for farmers' markets in the state and may apply for any federal, state, local or private grant programs or other funding opportunities as the secretary may determine will assist in the creation or promotion of farmers' markets in the state.

**History:** L. 2013, ch. 73, § 3; July 1.

**2-3804. Same; limited liability for registered farmers' market operators.** (a) Any participant assumes the inherent risks of attending, buying or selling goods at a farmers' market registered under this act. If a participant brings an action for damages arising from the operation of a registered farmers' market, the registered farmers' market operator may plead an affirmative defense of assumption of risk by the participant.

(b) Any limitation on legal liability afforded to a registered farmers' market operator by this act shall be in addition to any other limitation of legal liability otherwise provided by law.

(c) Nothing in this act shall prevent or limit the liability of a registered farmers' market operator if:

- (1) The registered farmers' market operator injures the participant by intentional or willful misconduct; or
- (2) the registered farmers' market operator has actual knowledge of a dangerous condition in the land, facilities or equipment used in the registered farmers' market activity or the dangerous propensity of a particular animal used in such activity and does not make such dangerous condition known to the participant and such dangerous condition causes the participant to sustain injuries or death.

**History:** L. 2013, ch. 73, § 4; July 1.

## Chapter 47. Livestock and Domestic Animals

### Article 19. Aquaculture

**47-1901. Definition.** As used in this act, "aquaculture" means the controlled cultivation and harvest of aquatic plants and animals.

**History:** L. 1992, ch. 102, § 1; July 1.

**47-1902. State aquaculture plan.** (a) The Kansas department of agriculture shall be the official lead agency to coordinate aquaculture activities in the state and shall be responsible for the implementation of a state aquaculture plan.

(b) The secretary of agriculture shall, in regard to the aquaculture industry, have the following duties, authorities and powers to:

- (1) Work with the respective regulatory and resource agencies to delineate individual agency responsibilities and activities in aquaculture research, regulation, service, and development;
  - (2) serve as an advocate for the industry and assist in promoting and marketing aquaculture products. The secretary shall provide market development assistance in conjunction with the industry and shall facilitate improved communication and interaction among aquaculture producers, governmental agencies, both federal and state, and with national organizations representing aquaculture interests;
  - (3) coordinate the development of aquaculture literature for the general public and fish growers, and act as a central clearinghouse for the transfer of information;
  - (4) provide guidance for aquaculture research and development;
  - (5) assist in the development and conducting of educational seminars, workshops, short courses, and other programs on aquaculture;
  - (6) accept grants and donations; and
  - (7) promulgate and adopt rules and regulations for the administration of this act.
- (c) In implementing the provisions of this section, aquaculture and aquaculture products shall be deemed to be agricultural products as that term is used in K.S.A. 74-530, and amendments thereto. In addition, the secretary of agriculture may use any power and authority granted under K.S.A. 74-530, and amendments thereto, in the implementation of this act.

**History:** L. 1992, ch. 102, § 10; L. 2004, ch. 101, § 81; L. 2006, ch. 16, § 1; July 1.

**47-1905. Aquaculture fund.** (a) There is hereby created in the state treasury the aquaculture fund. Such fund shall be used to receive and expend donations and grants to fund research in aquaculture and to promote and market aquaculture and aquaculture products in the state of Kansas.

(b) All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

**History:** L. 1992, ch. 102, § 13; L. 1993, ch. 53, § 2; L. 2004, ch. 101, § 84; July 1.

## Chapter 74. State Boards, Commissions and Authorities

### Article 5. Department of Agriculture

**74-5,112. Agriculture marketing and promotions program created within department of agriculture.** (a) There is hereby established, within and as a part of the Kansas department of agriculture, the agriculture marketing and promotions program.

(b) (1) The secretary of agriculture shall appoint such employees as may be needed to carry out the powers and duties of the program, and all such officers and employees shall be within the classified or unclassified service.

(2) All employees shall act for and exercise the powers of the secretary of agriculture to the extent that authority to do so is delegated by the secretary of agriculture.

**History:** Executive Reorganization Order No. 40, § 1; L. 2011, ch. 135, § 1; July 1.

**74-5,113. Transfer of marketing and promotions functions from department of commerce to department of agriculture.** (a) The agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this order, all powers, duties and functions of the agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, are hereby transferred to

and imposed upon the agriculture marketing and promotions program within the Kansas department of agriculture created herein.

**History:** Executive Reorganization Order No. 40, § 2; L. 2011, ch. 135, § 2; July 1.

**74-5,114. Powers, duties and functions of agriculture products development division transferred to department of agriculture; application of documentary references and designations; rules and regulations, orders and directives of secretary continued in effect until superseded.** (a) The agriculture marketing and promotions program within the Kansas department of agriculture shall be the successor in every way to the powers, duties and functions of the agriculture products development division within the department of commerce which were in effect prior to the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, and that are transferred pursuant to K.S.A. 2013 Supp. 74-5,113, and amendments thereto. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the agriculture marketing and promotions program within the Kansas department of agriculture shall be deemed to have the same force and effect as if performed by the agriculture products development division within the department of commerce in which such powers, duties and functions were in effect prior to the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

(b) Whenever the agriculture products development division or words of like effect are referred to or designated by a statute, contract, or other document and such reference is in regard to any of the powers, duties, or functions transferred to the agriculture products marketing and promotions program such reference or designation shall be deemed to apply to the program or the secretary of agriculture.

(c) All rules and regulations, orders and directives of the agriculture products development division within the department of commerce which relate to the functions transferred by K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto and which are in effect on the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein until revised, amended, revoked or nullified pursuant to law.

**History:** Executive Reorganization Order No. 40, § 3; L. 2011, ch. 135, § 3; July 1.

**74-5,115. Funds and liabilities transferred from department of commerce to department of agriculture.** (a) The balances of all funds or accounts thereof appropriated or reappropriated for the agriculture products development division within the department of commerce relating to the powers, duties and functions transferred by K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, are hereby transferred within the state treasury to the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees, grant funds, and loan repayment funds dedicated to the agriculture products development division within the department of commerce prior to the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall be transferred to the agriculture marketing and promotions program within the department of agriculture.

(c) Liability for all accrued compensation or salaries of officers and employees who are transferred from the agriculture products development division within the department of commerce under K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall be assumed and paid by the agriculture marketing and promotions program within the Kansas department of agriculture.

**History:** Executive Reorganization Order No. 40, § 4; L. 2011, ch. 135, § 4; July 1.

**74-5,116. Resolution of conflicts regarding disposition of property, powers, duties, functions, appropriations, personnel and records.** (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The agriculture marketing and promotions program within the Kansas department of agriculture shall succeed to all property, property rights and records which were used for or pertain to the performance of powers, duties and functions transferred to the division. Any conflict as to the proper disposition of property, personnel, or records arising under K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall be determined by the governor, whose decision shall be final.

**History:** Executive Reorganization Order No. 40, § 5; L. 2011, ch. 135, § 5; July 1.

**74-5,117. Rights preserved in legal actions and proceedings.** (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 K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, or by or against any officer of the state in such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto. 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 K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto.

**History:** Executive Reorganization Order No. 40, § 6; L. 2011, ch. 135, § 6; July 1.

**74-5,118. Transfer of officers and employees; rights and benefits preserved.** (a) The secretary of agriculture shall determine such employees as are necessary to enable the secretary to carry out the duties of the agriculture marketing and promotions program. All officers and employees of the agriculture products development division within the department of commerce who,

immediately prior to the effective date of K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, are engaged in the exercise and performance of the powers, duties and functions transferred by K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, who are determined by the secretary of agriculture to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, are hereby transferred to the agriculture marketing and promotions program within the Kansas department of agriculture. All classified employees so transferred shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the agriculture products development division within the department of commerce transferred by K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, 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. Any subsequent 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 K.S.A. 2013 Supp. 74-5,112 through 74-5,132, and amendments thereto, shall affect the classified status of any transferred person employed by the agriculture products development division of the department of commerce prior to the date of transfer.

**History:** Executive Reorganization Order No. 40, § 7; L. 2011, ch. 135, § 7; July 1.

## Article 50. Department of Commerce

**74-50,156. Establishing the agriculture marketing and promotions program; powers, duties and objectives thereof; agricultural value added center; trademark registration; report to the legislature; fulfillment of contracts.** (a) There is hereby established within and as a part of the Kansas department of agriculture the agriculture marketing and promotions program. The secretary of agriculture shall appoint a director of such program and such director shall be in the unclassified service of the Kansas civil service act. Subject to and in accordance with appropriations acts, the agriculture marketing and promotions program shall include:

- (1) All powers, duties and functions related to the agricultural value added center pursuant to subsections (b) and (c);
- (2) all powers and duties created regarding the division of markets pursuant to K.S.A. 74-530, and amendments thereto, which are hereby transferred;
- (3) all powers and duties created regarding registered trademarks pursuant to K.S.A. 74-540a, and amendments thereto, which are hereby transferred;
- (4) all powers and duties regarding the trademark fund pursuant to K.S.A. 74-540b, and amendments thereto, which are hereby transferred; and
- (5) all powers and duties created regarding expenditures and moneys credited to the market development fund pursuant to K.S.A. 74-540c, and amendments thereto, which are hereby transferred.

(b) The objectives of the agricultural value added center within the agriculture marketing and promotions program shall include, but not be limited to, providing technical assistance to existing and potential value added facilities, including incubator facilities; developing a network for collecting and distributing information to individuals involved in value added processing in Kansas; initiating pilot plant facilities to act as research and development laboratories for existing and potential small scale value added processing endeavors in Kansas; providing technical assistance to new agricultural value added businesses; developing and promoting communication and cooperation among private businesses; state government agencies and public and private colleges and universities in Kansas; establishing research and development programs in technologies that have value added commercial potential for food and nonfood agricultural products achieving substantial and sustainable continuing growth for the Kansas economy through value added products from agriculture; serving as a catalyst for industrial agriculture through technological innovation in order to expand economic opportunity for all Kansas communities; establishing an industrial agriculture industry for the state of Kansas; commercializing the developed industrial agriculture technology in smaller communities and the rural areas of Kansas; and developing investment grade agriculture value added technologies and products.

© Subject to the provisions of appropriations acts, the functions of the agricultural value added center within the agriculture marketing and promotions program shall include, but not be limited to, developing a market referral program, matching distribution to buyers in coordination with other state agencies concerned with marketing Kansas products; assisting private entrepreneurs in the establishment of facilities and markets for new agricultural value added endeavors; and introducing coordinated programs to develop marketing skills of existing agricultural value adding processors in Kansas.

(d) (1) It shall be the duty of the agriculture marketing and promotions program to perform acts and to do, or cause to be done, those things which are designed to lead to the more advantageous marketing of agricultural products of Kansas. For these purposes the division may:

- (A) Investigate the subject of marketing farm products;
- (B) promote their sales distribution and merchandising;
- (C) furnish information and assistance to the public;
- (D) study and recommend efficient and economical methods of marketing;
- (E) provide for such studies and research as may be deemed necessary and proper;
- (F) gather and diffuse timely and useful information concerning the supply, demand, prevailing prices and commercial movement of farm products including quantity in common storage and cold storage, in cooperation with other public or private agencies;

(G) conduct market development activities and assist and coordinate participation by companies, commodity organizations, trade organizations, producer organizations and other interested organizations to develop new markets and sales for Kansas agricultural commodities and food products;

(H) render assistance to any of the entities listed in subsection (G) and development activities and make a reasonable service charge for such services rendered by the division; and

(I) make agreements with other states and with the United States government, or its agencies, and accept funds from the federal government, or its agencies, or any other source for research studies, investigation, market development and other purposes related to the duties of the division.

(2) The Kansas department of agriculture shall remit all moneys received under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the market development fund. All expenditures from such fund shall be made for any purpose consistent with this subsection and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or a person designated by the secretary.

(e) (1) In conjunction with any trademark registered by the Kansas department of agriculture, the agriculture marketing and promotions program is hereby authorized to:

(A) Promulgate policy regarding the use of any such trademark;

(B) print, reproduce or use the trademark in or on educational, promotional or other material;

(C) fix, charge and collect fees for the use of the trademark provided that the fees shall be fixed in an amount necessary to recover all direct costs associated with the production of educational, promotional and other materials associated with a trademark program; and

(D) enter into any contracts necessary to carry out the purposes of this subsection, which contracts shall not be subject to the bidding requirements of K.S.A. 75-3739, and amendments thereto.

(2) The secretary of agriculture shall remit all moneys received under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the trademark fund. All expenditures from such fund shall be made for any purpose consistent with this subsection and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or a person designated by the secretary.

(f) On or before February 1 of each year, the agriculture marketing and promotions program shall present an oral and written report to the house and senate agriculture committees concerning the performance indicators, performance outcomes, activities and functions of the program for the previous year. Such report shall include a budget of how moneys appropriated or otherwise authorized to be expended from the state general fund or any special revenue fund for the agriculture marketing and promotions program of the Kansas department of agriculture for the previous fiscal year were spent and a projected budget of moneys appropriated or otherwise authorized to be expended from the state general fund or any special revenue fund for the agriculture marketing and promotions program of the Kansas department of agriculture for the current fiscal year. Such report shall further include the full-time equivalent number of positions financed from appropriations and allocated for the agriculture marketing and promotions program of the Kansas department of agriculture for each fiscal year.

**History:** L. 1996, ch. 209, § 2; L. 2001, ch. 5, § 328; L. 2003, ch. 154, § 60; L. 2011, ch. 104, § 15; L. 2012, ch. 140, § 121; July 1.

**Revisor's Note:**

Agriculture products development program renamed to marketing and promotions program and moved to department of agriculture, see also K.S.A. 2011 Supp. 74-5,112 through 74-5,118.

**74-50,163. Agriculture marketing and promotions advisory board; members; duties.** (a) There is hereby created an agriculture marketing and promotions advisory board. Members shall be appointed by the secretary of agriculture. The board shall consist of no less than nine and no more than 12 members. Each member appointed to the advisory board shall be recognized for knowledge and leadership in at least one of the following sectors: Livestock industry, commodity production, specialty crop production, local foods or farmers' markets, restaurant and food service industry, value-added or entrepreneurial agriculture, agricultural education, rural economic development, food processing, finance and banking, agricultural cooperatives and marketing or economics.

(b) Of the members first appointed to the board, the secretary of agriculture shall designate five whose terms shall expire June 30, 2014, and the remaining members' terms shall expire on June 30, 2016. After the expiration of such terms, each member shall be appointed for a term of four years until a successor is appointed and qualified.

(c) A vacancy on the board of a member shall be filled for the unexpired term by appointment by the secretary of agriculture.

(d) The board shall organize by election of a chairperson, vice-chairperson and such other officers as the board deems appropriate.

(e) The board shall advise the secretary of agriculture and the agriculture marketing and promotions program on issues and concerns of agriculture marketing, promotions and agribusiness development.

**History:** L. 1996, ch. 209, § 11; L. 2003, ch. 154, § 66; L. 2012, ch. 140, § 4; July 1.