

HOUSE BILL No. 2377

By Committee on Appropriations

3-10

9 AN ACT concerning pet animals; transferring the powers, duties and
10 functions of the livestock commissioner regarding the Kansas pet ani-
11 mal act to the secretary of agriculture; amending K.S.A. 47-1701, 47-
12 1702, 47-1703, 47-1704, 47-1708, 47-1712, 47-1713, 47-1715, 47-1719,
13 47-1720, 47-1723, 47-1725, 47-1727, 47-1731, 47-1732, 47-1733, 47-
14 1734, 47-1735 and 47-1736 and K.S.A. 2008 Supp. 47-1706, 47-1706a,
15 47-1707, 47-1709 and 47-1721 and repealing the existing sections.
16

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

18 New Section 1. (a) On the effective date of this act, the Kansas pet
19 animal act shall be administered by the secretary of agriculture. Such
20 administration shall be a continuation of administration of the act by the
21 livestock commissioner.

22 (b) All of the powers, duties and functions of the livestock commis-
23 sioner in administering the Kansas pet animal act are hereby transferred
24 to and imposed upon the Kansas department of agriculture and the sec-
25 retary of agriculture, respectively.

26 New Sec. 2. (a) In administering the Kansas pet animal act, the sec-
27 retary of agriculture shall be the successor in every way to the powers,
28 duties and functions of the livestock commissioner in which the same
29 were vested prior to the effective date of this act. Every act performed
30 in the exercise of such powers, duties and functions by or under the
31 authority of the secretary of agriculture shall be deemed to have the same
32 force and effect as if performed by the livestock commissioner in which
33 such powers, duties and functions were vested prior to the effective date
34 of this act.

35 (b) Whenever the Kansas pet animal act is referred to or designated
36 by a statute, contract, memorandum of understanding, plan, grant, waiver
37 or other document, such reference or designation shall be deemed to
38 apply to the secretary of agriculture for administration of the act.

39 (c) All rules and regulations, orders and directives of the livestock
40 commissioner, concerning the Kansas pet animal act, that are in effect
41 on the effective date of this act shall continue to be effective and shall be
42 deemed to be rules and regulations, orders and directives of the secretary
43 of agriculture until revised, amended, revoked or nullified pursuant to

1 law.

2 New Sec. 3. The Kansas pet animal advisory board, created by K.S.A.
3 47-1725, and amendments thereto, is hereby continued in existence and
4 shall be advisory to the secretary of agriculture with respect to powers,
5 duties and functions of the Kansas animal health department that are
6 transferred under this act. Persons who are members of the Kansas pet
7 animal advisory board on the effective date of this act shall continue to
8 hold such offices under the conditions and limitations provided under
9 K.S.A. 47-1725, and amendments thereto.

10 New Sec. 4. The Kansas department of agriculture shall succeed to
11 all property, property rights and records of the livestock commissioner as
12 relate to the administration of the Kansas pet animal act.

13 New Sec. 5. (a) On the effective date of this act, the balances of all
14 funds or accounts thereof appropriated or reappropriated for administra-
15 tion of the Kansas pet animal act are hereby transferred within the state
16 treasury to the Kansas department of agriculture and shall be used only
17 for the purpose for which the appropriation was originally made.

18 (b) Subject to acts of the legislature, all fees and grant funds dedi-
19 cated to the administration of the Kansas pet animal act prior to the
20 effective date of this act shall remain dedicated to the administration of
21 the Kansas pet animal act on and after the effective date of this act.

22 New Sec. 6. (a) (1) All officers and employees engaged in the ad-
23 ministration of the Kansas pet animal act and who are, in the opinion of
24 the secretary of agriculture, necessary to administer such act, shall be-
25 come officers and employees of the Kansas department of agriculture and
26 are hereby transferred to the Kansas department of agriculture on the
27 effective date of this act.

28 (2) The secretary of agriculture shall determine such officers and em-
29 ployees as are necessary to enable the secretary to administer the Kansas
30 pet animal act.

31 (3) All classified employees transferred under this subsection (a) shall
32 retain their status as classified employees. Thereafter, the secretary of
33 agriculture may convert vacant classified positions to positions in the un-
34 classified service under the Kansas civil service act.

35 (b) Officers and employees of the Kansas animal health department
36 transferred by this act shall retain all retirement benefits and leave bal-
37 ances and rights that had accrued or vested prior to the date of transfer.
38 The service of each such officer and employee so transferred shall be
39 deemed to have been continuous. Any subsequent transfers, layoffs or
40 abolition of classified service positions under the Kansas civil service act
41 shall be made in accordance with the civil service laws and any rules and
42 regulations adopted thereunder. Nothing in this act shall affect the clas-
43 sified status of any transferred person employed by the state conservation

1 commission prior to the date of transfer.

2 (c) Liability for accrued compensation or salaries of each officer and
3 employee who is transferred to the Kansas department of agriculture
4 under this act shall be assumed and paid by the Kansas department of
5 agriculture on the effective date of this act.

6 New Sec. 7. (a) No suit, action, or other proceeding, judicial or ad-
7 ministrative, that is lawfully commenced or that could have been lawfully
8 commenced, by or against any state agency or program mentioned in this
9 act, or by or against any officer of the state in such officer's official capacity
10 or in relation to the discharge of such officer's official duties, shall abate
11 by reason of the governmental reorganization effected under the provi-
12 sions of this act. The court may allow any such suit, action or other pro-
13 ceeding to be maintained by or against the successor of any such state
14 agency or any officer affected.

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

17 Sec. 8. K.S.A. 47-1701 is hereby amended to read as follows: 47-
18 1701. As used in the Kansas pet animal act, unless the context otherwise
19 requires:

20 (a) "Adequate feeding" means supplying at suitable intervals (not to
21 exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the
22 animal species and age, and sufficient to maintain a reasonable level of
23 nutrition in each animal.

24 (b) "Adequate watering" means a supply of clean, fresh, potable wa-
25 ter, supplied in a sanitary manner and either continuously accessible to
26 each animal or supplied at intervals suitable for the animal species, not
27 to exceed intervals of 12 hours.

28 (c) "Ambient temperature" means the temperature surrounding the
29 animal.

30 (d) (1) "Animal" means any live dog, cat, rabbit, rodent, nonhuman
31 primate, bird or other warm-blooded vertebrate or any fish, snake or
32 other cold-blooded vertebrate.

33 (2) Animal does not include horses, cattle, sheep, goats, swine, ratites,
34 domesticated deer or domestic fowl.

35 (e) "Animal breeder" means any person who operates animal breeder
36 premises.

37 (f) "Animal breeder premises" means any premises where all or part
38 of six or more litters of dogs or cats, or both, or 30 or more dogs or cats,
39 or both, are sold, or offered or maintained for sale, primarily at wholesale
40 for resale to another.

41 (g) "Animal shelter" or "pound" means a facility which is used or
42 designed for use to house, contain, impound or harbor any seized stray,
43 homeless, relinquished or abandoned animal or a person who acts as an

- 1 animal rescuer, or who collects and cares for unwanted animals or offers
2 them for adoption. Animal shelter or pound also includes a facility of an
3 individual or organization, profit or nonprofit, maintaining 20 or more
4 dogs or cats, or both, for the purpose of collecting, accumulating, amass-
5 ing or maintaining the animals or offering the animals for adoption.
- 6 (h) “Cat” means an animal which is wholly or in part of the species
7 *Felis domesticus*.
- 8 (i) ~~“Commissioner” means the livestock commissioner appointed by~~
9 ~~the Kansas animal health board.~~ “Secretary” means the secretary of ag-
10 riculture of the Kansas department of agriculture.
- 11 (j) “Dog” means any animal which is wholly or in part of the species
12 *Canis familiaris* but does not include any greyhound, as defined by K.S.A.
13 74-8802 and amendments thereto.
- 14 (k) “Animal control officer” means any person employed by, con-
15 tracted with or appointed by the state, or any political subdivision thereof,
16 for the purpose of aiding in the enforcement of this law, or any other law
17 or ordinance relating to the licensing or permitting of animals, control of
18 animals or seizure and impoundment of animals, and includes any state,
19 county or municipal law enforcement officer, dog warden, constable or
20 other employee, whose duties in whole or in part include assignments
21 which involve the seizure or taking into custody of any animal.
- 22 (l) “Euthanasia” means the humane destruction of an animal, which
23 may be accomplished by any of those methods provided for in K.S.A. 47-
24 1718 and amendments thereto.
- 25 (m) “Hobby breeder premises” means any premises where all or part
26 of 3, 4 or 5 litters of dogs or cats, or both, are produced for sale or sold,
27 offered or maintained for sale. This provision applies only if the total
28 number of dogs or cats, or both, sold, offered or maintained for sale is
29 less than 30 individual animals.
- 30 (n) “Hobby breeder” means any person who operates a hobby
31 breeder premises.
- 32 (o) “Housing facility” means any room, building or area used to con-
33 tain a primary enclosure or enclosures.
- 34 (p) “Kennel operator” means any person who operates an establish-
35 ment where four or more dogs or cats, or both, are maintained in any
36 one week for boarding, training or similar purposes for a fee or
37 compensation.
- 38 (q) “Kennel operator premises” means the facility of a kennel
39 operator.
- 40 (r) “License year” or “permit year” means the 12-month period end-
41 ing on June 30.
- 42 (s) “Person” means any individual, association, partnership, corpo-
43 ration or other entity.

- 1 (t) (1) “Pet shop” means any premises where there are sold, or of-
2 ferred or maintained for sale, at retail and not for resale to another:
- 3 (A) Any dogs or cats, or both; or (B) any other animals except those
4 which are produced and raised on such premises and are sold, or offered
5 or maintained for sale, by a person who resides on such premises.
- 6 (2) Pet shop does not include: (A) Any pound or animal shelter; (B)
7 any premises where only fish are sold, or offered or maintained for sale;
8 or (C) any animal distributor premises, hobby breeder premises, retail
9 breeder premises or animal breeder premises.
- 10 (3) Nothing in this section prohibits inspection of those premises
11 which sell only fish to verify that only fish are being sold.
- 12 (u) “Pet shop operator” means any person who operates a pet shop.
- 13 (v) “Primary enclosure” means any structure used or designed for
14 use to restrict any animal to a limited amount of space, such as a room,
15 pen, cage, compartment or hutch.
- 16 (w) “Research facility” means any place, laboratory or institution, ex-
17 cept an elementary school, secondary school, college or university, at
18 which any scientific test, experiment or investigation involving the use of
19 any living animal is carried out, conducted or attempted.
- 20 (x) “Sale,” “sell” and “sold” include transfers by sale or exchange.
21 Maintaining animals for sale is presumed whenever 20 or more dogs or
22 cats, or both, are maintained by any person.
- 23 (y) “Sanitize” means to make physically clean and to remove and de-
24 stroy, to a practical minimum, agents injurious to health, at such intervals
25 as necessary.
- 26 (z) “Animal distributor” means any person who operates an animal
27 distributor premises.
- 28 (aa) “Animal distributor premises” means the premises of any person
29 engaged in the business of buying for resale dogs or cats, or both, as a
30 principal or agent, or who holds such distributor’s self out to be so
31 engaged.
- 32 (bb) “Out-of-state distributor” means any person residing in a state
33 other than Kansas, who is engaged in the business of buying for resale
34 dogs or cats, or both, within the state of Kansas, as a principal or agent.
- 35 (cc) “Food animals” means rodents, rabbits, reptiles, fish or amphib-
36 ians that are sold or offered or maintained for sale for the sole purpose
37 of being consumed as food by other animals.
- 38 (dd) (1) “Adequate veterinary medical care” means:
- 39 (A) A documented program of disease control and prevention, eu-
40 thanasia and routine veterinary care shall be established and maintained
41 under the supervision of a licensed veterinarian, on a form provided by
42 the ~~commissioner~~ *secretary*, and shall include a documented on-site visit
43 to the premises by the veterinarian at least once a year; and

1 (B) that diseased, ill, injured, lame or blind animals shall be provided
2 with veterinary care as is needed for the health and well-being of the
3 animal.

4 (2) As used in the Kansas pet animal act, “adequate veterinary med-
5 ical care” shall not apply to United States department of agriculture li-
6 censed animal breeders or animal distributors.

7 (ee) “Ratites” means all creatures of the ratite family that [are] not
8 indigenous to this state, including, but not limited to, ostriches, emus and
9 rheas.

10 (ff) “Retail breeder” means any person who operates a retail breeder
11 premises.

12 (gg) “Retail breeder premises” means any premises where all or part
13 of six or more litters or 30 or more dogs or cats, or both, are sold, or
14 offered or maintained for sale, primarily at retail and not for resale to
15 another.

16 (hh) “Retail” means any transaction where the animal is sold to the
17 final consumer.

18 (ii) “Wholesale” means any transaction where the animal is sold for
19 the purpose of resale to another.

20 Sec. 9. K.S.A. 47-1702 is hereby amended to read as follows: 47-
21 1702. It shall be unlawful for any person to act as or be an animal dis-
22 tributor unless such person has obtained from the ~~commissioner~~ *secretary*
23 an animal distributor license for each animal distributor premises oper-
24 ated by such person. Application for such license shall be made in writing
25 on a form provided by the ~~commissioner~~ *secretary*. The license period
26 shall be for the license year ending on June 30 following the issuance
27 date.

28 Sec. 10. K.S.A. 47-1703 is hereby amended to read as follows: 47-
29 1703. It shall be unlawful for any person to act as or be a pet shop operator
30 unless such person has obtained from the ~~commissioner~~ *secretary* a pet
31 shop operator license for each pet shop operated by such person. Appli-
32 cation for each such license shall be made in writing on a form provided
33 by the ~~commissioner~~ *secretary*. The license period shall be for the license
34 year ending on June 30 following the issuance date.

35 Sec. 11. K.S.A. 47-1704 is hereby amended to read as follows: 47-
36 1704. It shall be unlawful for any person to operate a pound or animal
37 shelter, except a licensed veterinarian who operates such pound or animal
38 shelter from such licensed veterinarian’s clinic, unless a license for such
39 pound or shelter has been obtained from the ~~commissioner~~ *secretary*.
40 Application for such license shall be made on a form provided by the
41 ~~commissioner~~ *secretary*. The license period shall be for the license year
42 ending on June 30 following the issuance date.

43 Sec. 12. K.S.A. 2008 Supp. 47-1706 is hereby amended to read as

1 follows: 47-1706. (a) The ~~commissioner~~ *secretary* may refuse to issue or
2 renew or may suspend or revoke any license or permit required under
3 K.S.A. 47-1701 et seq., and amendments thereto, for any one or more of
4 the following reasons:

5 (1) Material misstatement in the application for the original license
6 or permit, or in the application for any renewal of a license or permit;

7 (2) willful disregard of any provision of the Kansas pet animal act or
8 any rule and regulation adopted hereunder, or any willful aiding or abet-
9 ting of another in the violation of any provision of the Kansas pet animal
10 act or any rule and regulation adopted hereunder;

11 (3) permitting any license or permit issued hereunder to be used by
12 an unlicensed or unpermitted person or transferred to unlicensed or un-
13 permitted premises;

14 (4) the conviction of any crime relating to the theft of animals or a
15 first conviction of cruelty to animals;

16 (5) substantial misrepresentation;

17 (6) misrepresentation or false promise, made through advertising, sa-
18 lespersons, agents or otherwise, in connection with the operation of busi-
19 ness of the licensee or permittee;

20 (7) fraudulent bill of sale;

21 (8) the housing facility or the primary enclosure is inadequate; or

22 (9) the feeding, watering, sanitizing and housing practices at the li-
23 censee's or permittee's premises are not consistent with the Kansas pet
24 animal act or the rules and regulations adopted hereunder.

25 (b) The ~~commissioner~~ *secretary* shall refuse to issue or renew and
26 shall suspend or revoke any license or permit required under K.S.A. 47-
27 1701 et seq., and amendments thereto, for the second or subsequent
28 conviction of cruelty to animals, K.S.A. 21-4310, and amendments
29 thereto.

30 (c) Any refusal to issue or renew a license or permit, and any sus-
31 pension or revocation of a license or permit, under this section shall be
32 in accordance with the provisions of the Kansas administrative procedure
33 act and shall be subject to review in accordance with the act for judicial
34 review and civil enforcement of agency actions.

35 (d) Whenever the ~~commissioner~~ *secretary* denies, suspends or re-
36 vokes a license or permit under this section, the ~~commissioner~~ *secretary*
37 or the ~~commissioner's~~ *secretary's* authorized, trained representatives shall
38 seize and impound any animals in the possession, custody or care of the
39 person whose license or permit is denied, suspended or revoked if there
40 are reasonable grounds to believe that the animals' health, safety or wel-
41 fare is endangered. Except as provided by K.S.A. 21-4311, and amend-
42 ments thereto, such animals may be returned to the person owning them
43 if there is satisfactory evidence that the animals will receive adequate care

1 by that person or such animals may be sold, placed or euthanized, at the
2 discretion of the ~~commissioner~~ *secretary*. Costs of care and services for
3 such animals while seized and impounded shall be paid by the person
4 from whom the animals were seized and impounded, if that person's
5 license or permit is denied, suspended or revoked. Such funds shall be
6 paid to the ~~commissioner~~ *secretary* for reimbursement of care and serv-
7 ices provided during seizure and impoundment. If such person's license
8 or permit is not denied, suspended or revoked, the ~~commissioner~~ *secre-*
9 *tary* shall pay the costs of care and services provided during seizure and
10 impoundment.

11 Sec. 13. K.S.A. 2008 Supp. 47-1706a is hereby amended to read as
12 follows: 47-1706a. (a) When an animal is seized or impounded pursuant
13 to K.S.A. 47-1706, 47-1707 or 47-1715, and amendments thereto, the
14 owner or person who was in possession of the animal at the time such
15 animal was seized or impounded may post a cash or security bond as
16 provided in this section which shall prevent the sale, placement or eu-
17 thanasia of the animal. Such cash or security bond shall be in an amount
18 sufficient to pay for the animal's care and keeping for a period of at least
19 30 days, commencing on the date which the animal was seized or im-
20 pounded. Any such security bond or any security bond as provided in
21 subsection (b) shall be approved by the ~~Kansas animal health department~~
22 *secretary of agriculture*.

23 (b) Such bond shall be filed with the ~~Kansas animal health depart-~~
24 ~~ment~~ *secretary of agriculture* and shall be posted on or before the date
25 of the disposition hearing or within ten days after the animal is seized or
26 impounded, whichever is earlier. At the end of the time for which ex-
27 penses are covered by the bond if the owner or person who was in pos-
28 session of the animal at the time it was seized or impounded desires to
29 prevent disposition of the animal, such owner or person shall post a new
30 cash or security bond prior to the previous bond's expiration. At the end
31 of the time for which expenses are covered by the bond, the animal may
32 be sold, placed or euthanized.

33 (c) The authority seizing or impounding an animal shall give notice
34 by delivering a copy of this section to a person residing on the property
35 where the animal was seized or by posting a copy at the place where the
36 animal was seized.

37 (d) Nothing in this section shall prevent the euthanasia at any time
38 of an animal seized or impounded which is determined by a licensed
39 veterinarian to be diseased or disabled beyond recovery for any useful
40 purpose.

41 (e) This act is supplemental to and shall become a part of the Kansas
42 pet animal act.

43 Sec. 14. K.S.A. 2008 Supp. 47-1707 is hereby amended to read as

1 follows: 47-1707. (a) In addition to or in lieu of any other civil or criminal
2 penalty provided by law, the ~~commissioner~~ *secretary*, upon a finding that
3 a person has violated or failed to comply with any provision of the Kansas
4 pet animal act or any rule and regulation adopted hereunder, may impose
5 on such person a civil fine not exceeding \$1,000 for each violation or
6 requirement to attend an educational course regarding animals and their
7 care and treatment. If the ~~commissioner~~ *secretary* imposes the educa-
8 tional course, such person may choose either the fine or the educational
9 course. If such person chooses the fine, the ~~commissioner~~ *secretary* shall
10 establish the amount pursuant to the fine provisions of this section. The
11 educational course shall be administered by the ~~commissioner~~ *secretary*
12 in consultation with Kansas state university college of veterinary
13 medicine.

14 (b) Any imposition of a civil fine pursuant to this section shall be only
15 upon notice and a hearing conducted in accordance with the Kansas ad-
16 ministrative procedure act and shall be subject to review in accordance
17 with the act for judicial review and civil enforcement of agency actions.

18 (c) Whenever the ~~commissioner~~ *secretary* has reasonable grounds to
19 believe that a person or premises required to be licensed or permitted
20 under the Kansas pet animal act has failed to comply with or has violated
21 any provision of the Kansas pet animal act or any rule and regulation
22 adopted hereunder and that the health, safety or welfare of animals in
23 such person's possession, custody or care is endangered thereby, the ~~com-~~
24 ~~missioner~~ *secretary* shall seize and impound such animals using emer-
25 gency adjudicative proceedings in accordance with the Kansas adminis-
26 trative procedure act. Except as provided by K.S.A. 21-4311, and
27 amendments thereto, such animals may be returned to the person owning
28 them if there is satisfactory evidence that the animals will receive ade-
29 quate care by that person or such animals may be sold, placed or euthan-
30 ized, at the discretion of the ~~commissioner~~ *secretary*. Costs of care and
31 services for such animals while seized and impounded shall be paid by
32 the person from whom the animals were seized and impounded, if that
33 person is found to be in violation of the Kansas pet animal act or any
34 rules and regulations adopted hereunder. Such funds shall be paid to the
35 ~~commissioner~~ *secretary* for reimbursement of care and services provided
36 during seizure and impoundment. If such person is not found to be in
37 violation of the Kansas pet animal act or any rules and regulations adopted
38 hereunder, the ~~commissioner~~ *secretary* shall pay the costs of care and
39 services provided during seizure and impoundment.

40 Sec. 15. K.S.A. 47-1708 is hereby amended to read as follows: 47-
41 1708. Any action of the ~~commissioner~~ *secretary* pursuant to K.S.A. 47-
42 1705 or 47-1706, and amendments thereto, is subject to review in ac-
43 cordance with the act for judicial review and civil enforcement of agency

1 actions.

2 Sec. 16. K.S.A. 2008 Supp. 47-1709 is hereby amended to read as
3 follows: 47-1709. (a) The ~~commissioner~~ *secretary* or the ~~commissioner's~~
4 *secretary's* authorized, trained representatives shall make an inspection
5 of the premises for which an application for an original license or permit
6 is made under K.S.A. 47-1701 et seq., and amendments thereto, before
7 issuance of such license or permit. The application for a license shall
8 conclusively be deemed to be the consent of the applicant to the right of
9 entry and inspection of the premises sought to be licensed or permitted
10 by the ~~commissioner~~ *secretary* or the ~~commissioner's~~ *secretary's* author-
11 ized, trained representatives at reasonable times with the owner or
12 owner's representative present. Refusal of such entry and inspection shall
13 be grounds for denial of the license or permit. Notice need not be given
14 to any person prior to inspection.

15 (b) The ~~commissioner~~ *secretary* or the ~~commissioner's~~ *secretary's* au-
16 thorized, trained representatives may make an inspection of each prem-
17 ises for which a license or permit has been issued under K.S.A. 47-1701
18 et seq., and amendments thereto. If such premises are premises of a
19 person licensed or permitted under public law 91-579 (7 U.S.C. § 2131
20 et seq.), such premises may be inspected at least once each year. Oth-
21 erwise, the premises may be inspected at least twice each year. The ac-
22 ceptance of a license or permit shall conclusively be deemed to be the
23 consent of the licensee or permittee to the right of entry and inspection
24 of the licensed or permitted premises by the ~~commissioner~~ *secretary* or
25 the ~~commissioner's~~ *secretary's* authorized, trained representatives at rea-
26 sonable times with the owner or owner's representative present. Refusal
27 of such entry and inspection shall be grounds for suspension or revocation
28 of the license or permit. Notice need not be given to any person prior to
29 inspection.

30 (c) The ~~commissioner~~ *secretary* or the ~~commissioner's~~ *secretary's* au-
31 thorized, trained representatives shall make inspections of the premises
32 of a person required to be licensed or permitted under K.S.A. 47-1701
33 et seq., and amendments thereto, upon a determination by the ~~commis-~~
34 ~~sioner~~ *secretary* that there are reasonable grounds to believe that the
35 person is violating the provisions of K.S.A 47-1701 et seq., and amend-
36 ments thereto, or rules and regulations adopted thereunder or that there
37 are grounds for suspension or revocation of such person's license or
38 permit.

39 (d) Any complaint filed with the ~~commissioner~~ *secretary* shall be con-
40 fidential and shall not be released to any person other than employees of
41 the ~~commissioner~~ *secretary* as necessary to carry out the duties of their
42 employment.

43 (e) Any person making inspections under this section shall be trained

1 by the ~~commissioner~~ *secretary* in reasonable standards of animal care.

2 (f) The ~~commissioner~~ *secretary* may request a licensed veterinarian
3 to assist in any inspection or investigation made by the ~~commissioner~~
4 *secretary* or the ~~commissioner's~~ *secretary's* authorized representative un-
5 der this section.

6 (g) Any person acting as the ~~commissioner's~~ *secretary's* authorized
7 representative for purposes of making inspections and conducting inves-
8 tigations under this section who knowingly falsifies the results or findings
9 of any inspection or investigation or who intentionally fails or refuses to
10 make an inspection or conduct an investigation pursuant to this section
11 shall be guilty of a class A nonperson misdemeanor.

12 (h) No person shall act as the ~~commissioner's~~ *secretary's* authorized
13 representative for the purposes of making inspections and conducting
14 investigations under this section if such person has a beneficial interest
15 in a person required to be licensed or permitted pursuant to K.S.A. 47-
16 1701 et seq., and amendments thereto.

17 (i) Records of inspections pursuant to this section shall be maintained
18 in the office of the ~~Kansas animal health department~~ *secretary of agri-*
19 *culture*. Records of a deficiency or violation shall not be maintained for
20 longer than three years after the deficiency or violation is remedied.

21 (j) The ~~commissioner~~ *secretary* shall, in consultation with Kansas
22 state university college of veterinary medicine: (1) Continue procedures
23 to provide for pet animal training or updated training for authorized
24 trained representatives who inspect premises under the pet animal act
25 and to allow the owners of such facilities licensed or permitted under the
26 pet animal act to attend and participate at the training workshops for the
27 authorized trained representatives; and (2) make available to such owners
28 and other interested persons an inspection handbook describing the du-
29 ties and responsibilities of such authorized trained representatives.

30 Sec. 17. K.S.A. 47-1712 is hereby amended to read as follows: 47-
31 1712. (a) The ~~commissioner~~ *secretary* is hereby authorized to adopt rules
32 and regulations for licensees and permittees. Such rules and regulations
33 shall include, but not be limited to, provisions relating to: (1) Reasonable
34 treatment of animals in the possession, custody or care of a licensee or
35 permittee or being transported to or from licensed or permitted premises;
36 (2) a requirement that each licensee and permittee file with the ~~com-~~
37 ~~missioner~~ *secretary* evidence that animals entering or leaving the state
38 are free from any visible symptoms of communicable disease; (3) iden-
39 tification of animals handled; (4) primary enclosures; (5) housing facilities;
40 (6) sanitation; (7) euthanasia; (8) ambient temperatures; (9) feeding; (10)
41 watering; (11) adequate veterinary medical care; (12) inspections of li-
42 censed or permitted premises, investigations of complaints and training
43 of persons conducting such inspections and investigations; and (13) a re-

1 quirement that each licensee or permittee keep and maintain, for in-
2 spection by the ~~commission~~ *secretary*, such records as necessary to ad-
3 minister and enforce the provisions of the Kansas pet animal act.

4 (b) The ~~commissioner~~ *secretary* shall only adopt as rules and regu-
5 lations for United States department of agriculture licensed animal dis-
6 tributors and animal breeders, and animal distributor and animal breeder
7 premises the rules and regulations promulgated by the secretary of the
8 United States department of agriculture, cited at 9 C.F.R. 3.1 through
9 3.12, pursuant to the provisions of the United States public law 91-579
10 (7 U.S.C. § 2131 et seq.), commonly known as the animal welfare act.

11 (c) Notwithstanding any provision in subsection (b), the ~~commis-~~
12 ~~sioner~~ *secretary* may adopt a requirement that each licensee and per-
13 mittee file with the ~~commissioner~~ *secretary* evidence that animals enter-
14 ing or leaving the state are free from any visible symptoms of
15 communicable disease.

16 Sec. 18. K.S.A. 47-1713 is hereby amended to read as follows: 47-
17 1713. The ~~commissioner~~ *secretary* may prohibit the sale or gift of animals
18 which constitute a hazard to human health or safety or to animal health
19 or safety.

20 Sec. 19. K.S.A. 47-1715 is hereby amended to read as follows: 47-
21 1715. (a) Any violation of or failure to comply with any provision of the
22 Kansas pet animal act, or any rule and regulation adopted hereunder,
23 shall constitute a class A nonperson misdemeanor. Continued operation,
24 after a conviction, shall constitute a separate offense for each day of
25 operation.

26 (b) Upon a conviction of a person for any violation of the Kansas pet
27 animal act, or any rule and regulation adopted hereunder, the court shall
28 order the ~~commissioner~~ *secretary* to seize and impound any animals in
29 the convicted person's possession, custody or care if there are reasonable
30 grounds to believe that the animals' health, safety or welfare is endan-
31 gered. Except as provided by K.S.A. 21-4311, and amendments thereto,
32 such animals may be returned to the person owning them if there is
33 satisfactory evidence that the animals will receive adequate care by that
34 person or such animals may be sold, placed or euthanized, at the discre-
35 tion of the ~~commissioner~~ *secretary*. Costs of care and services for such
36 animals while seized and impounded shall be paid by the convicted per-
37 son. Such funds shall be paid to the ~~commissioner~~ *secretary* for reim-
38 bursement of care and services provided during seizure and impound-
39 ment. If the person is not convicted, the ~~commissioner~~ *secretary* shall
40 pay the costs of care and services provided during seizure and
41 impoundment.

42 Sec. 20. K.S.A. 47-1719 is hereby amended to read as follows: 47-
43 1719. (a) It shall be unlawful for any person to act as or be a hobby

1 breeder unless such person has obtained from the ~~commissioner~~ *secretary*
2 a hobby breeder license. Application for such license shall be made in
3 writing on a form provided by the ~~commissioner~~ *secretary*. The license
4 period shall be for the license year ending on June 30 following the is-
5 suance date.

6 (b) This section shall be part of and supplemental to K.S.A. 47-1701
7 et seq., and amendments thereto.

8 Sec. 21. K.S.A. 47-1720 is hereby amended to read as follows: 47-
9 1720. (a) It shall be unlawful for any person to operate a research facility
10 unless such person has obtained from the ~~commissioner~~ *secretary* a re-
11 search facility license. Application for such license shall be made in writ-
12 ing on a form provided by the ~~commissioner~~ *secretary*. The license period
13 shall be for the license year ending on June 30 following the issuance
14 date.

15 (b) This section shall be part of and supplemental to K.S.A. 47-1701
16 et seq., and amendments thereto.

17 Sec. 22. K.S.A. 2008 Supp. 47-1721 is hereby amended to read as
18 follows: 47-1721. (a) Each application for issuance or renewal of a license
19 or permit required under K.S.A. 47-1701 et seq., and amendments
20 thereto, shall be accompanied by the fee prescribed by the ~~commissioner~~
21 *secretary* under this section. Such fees shall be as follows:

22 (1) Except as provided in paragraph (5) or (6), for a license for prem-
23 ises of a person licensed under public law 91-579 (7 U.S.C. § 2131 et
24 seq.), an amount not to exceed \$200;

25 (2) except as provided in paragraph (5) or (6), for a license for any
26 other premises, an amount not to exceed \$405;

27 (3) for a temporary closing permit, an amount not to exceed \$95;

28 (4) for an out-of-state distributor permit, an amount not to exceed
29 \$675;

30 (5) for a hobby breeder license or a kennel operator license an
31 amount not to exceed \$95;

32 (6) for a license for an animal shelter or a pound, an amount not to
33 exceed \$300; and

34 (7) a late fee of \$70 shall be assessed to any person whose permit or
35 license renewal is more than 45 days' late.

36 (b) The ~~commissioner~~ *secretary* shall determine annually the amount
37 necessary to carry out and enforce K.S.A. 47-1701 et seq., and amend-
38 ments thereto, for the next ensuing fiscal year and shall fix by rules and
39 regulations the license and permit fees for such year at the amount nec-
40 essary for that purpose, subject to the limitations of this section. In fixing
41 such fees, the ~~commissioner~~ *secretary* may establish categories of licenses
42 and permits, based upon the type of license or permit, size of the licensed
43 or permitted business or activity and the premises where such business

1 or activity is conducted, and may establish different fees for each such
2 category. The fees in effect immediately prior to the effective date of this
3 act shall continue in effect until different fees are fixed by the ~~commis-~~
4 ~~sioner~~ *secretary* as provided by this subsection.

5 (c) If a licensee, permittee or applicant for a license or permit re-
6 quests an inspection of the premises of such licensee, permittee or ap-
7 plicant, the ~~commissioner~~ *secretary* shall assess the costs of such inspec-
8 tion, as established by rules and regulations of the ~~commissioner~~
9 *secretary*, to such licensee, permittee or applicant.

10 (d) No fee or assessment required pursuant to this section shall be
11 refundable.

12 (e) The ~~commissioner~~ *secretary* shall remit all moneys received by or
13 for the ~~commissioner~~ *secretary* under this section to the state treasurer
14 in accordance with the provisions of K.S.A. 75-4215, and amendments
15 thereto. Upon receipt of each such remittance, the state treasurer shall
16 deposit the entire amount in the state treasury to the credit of the animal
17 dealers fee fund, which is hereby created in the state treasury. Moneys
18 in the animal dealers fee fund may be expended only to administer and
19 enforce K.S.A. 47-1701 et seq., and amendments thereto. All expendi-
20 tures from the animal dealers fee fund shall be made in accordance with
21 appropriation acts upon warrants of the director of accounts and reports
22 issued pursuant to vouchers approved by the ~~Kansas livestock commis-~~
23 ~~sioner~~ *secretary of agriculture* or the ~~commissioner's~~ *secretary's* designee.

24 (f) Premises required to be licensed under the Kansas pet animal act
25 shall not be required to pay for more than one license. If more than one
26 operation is ongoing at the premises, each operation shall comply with
27 the applicable statutes and rules and regulations pertaining to such
28 operation.

29 (g) Except as provided further, when a premises required to be li-
30 censed or permitted under the Kansas pet animal act applies for an initial
31 license or permit, the ~~commissioner~~ *secretary* shall prorate to the nearest
32 whole month the license or permit fee established in subsection (a). The
33 ~~commissioner~~ *secretary* shall have discretion to determine whether the
34 application is an initial application or an application for a premises which
35 has been doing business but is not licensed or permitted. If the ~~commis-~~
36 ~~sioner~~ *secretary* determines the premises has been doing business without
37 a license or permit, the ~~commissioner~~ *secretary* is not required to prorate
38 the fee.

39 (h) This section shall be part of and supplemental to K.S.A. 47-1701
40 et seq., and amendments thereto.

41 Sec. 23. K.S.A. 47-1723 is hereby amended to read as follows: 47-
42 1723. (a) It shall be unlawful for any person, except a licensed veterinar-
43 ian, to act as or be a kennel operator unless such person has obtained

1 from the ~~commissioner~~ *secretary* a kennel operator license for each prem-
2 ises operated by such person. Application for such license shall be made
3 in writing on a form provided by the ~~commissioner~~ *secretary*. The license
4 period shall be for the license year ending on June 30 following the is-
5 suance date.

6 (b) This section shall be part of and supplemental to K.S.A. 47-1701
7 et seq., and amendments thereto.

8 Sec. 24. K.S.A. 47-1725 is hereby amended to read as follows: 47-
9 1725. (a) There is hereby created the Kansas pet animal advisory board,
10 consisting of 10 members. Members shall be appointed by the governor
11 as follows:

12 (1) One member shall be a representative of a licensed animal shelter
13 or pound;

14 (2) one member shall be an employee of a licensed research facility;

15 (3) one member shall be a licensed animal breeder;

16 (4) one member shall be a licensed retail breeder;

17 (5) one member shall be a licensed pet shop operator;

18 (6) one member shall be a licensed veterinarian and shall be selected
19 from a list of three names presented to the governor by the Kansas vet-
20 erinary medical association;

21 (7) one member shall be a private citizen with no link to the industry;

22 (8) one member shall be a licensed animal distributor;

23 (9) one member shall be a licensed hobby breeder; and

24 (10) one member shall be a licensed kennel operator.

25 (b) Of the members first appointed to the board, the governor shall
26 designate three whose terms shall expire June 30, 1992; three whose
27 terms shall expire June 30, 1993; and three whose terms shall expire June
28 30, 1994. After the expiration of such terms, each member shall be ap-
29 pointed for a term of three years and until a successor is appointed and
30 qualified.

31 (c) A vacancy on the board of a member shall be filled for the unex-
32 pired term by appointment by the governor.

33 (d) The board shall meet at least once every calendar quarter regu-
34 larly or at such other times as the chairperson or a majority of the board
35 members determine. A majority of the members shall constitute a quo-
36 rum for conducting board business.

37 (e) The members of the board shall annually elect a chairperson.

38 (f) The board shall have the following duties, authorities and powers:

39 (1) To advise the ~~Kansas livestock commissioner~~ *secretary of agri-*
40 *culture* on hiring a director to implement the Kansas pet animal act;

41 (2) to review the status of the Kansas pet animal act;

42 (3) to make recommendations on changes to the Kansas pet animal
43 act; and

1 (4) to make recommendations concerning the rules and regulations
2 for the Kansas pet animal act.

3 (g) Board members who are required to be licensed except retail
4 breeders shall be affiliated with or a member of an organized pet animal
5 association which is representative of the position such person will hold
6 on the board.

7 (h) Upon the effective date of this act, the governor shall appoint a
8 licensed kennel operator. When the current board members' terms ex-
9 pire, the governor shall appoint persons or representatives in accordance
10 with this section.

11 Sec. 25. K.S.A. 47-1727 is hereby amended to read as follows: 47-
12 1727. Notwithstanding the existence or pursuit of any other remedy,
13 when it appears to the ~~commissioner~~ *secretary*, as head of the licensing
14 and permitting agency, that any person is violating any provisions of the
15 Kansas pet animal act, the ~~commissioner~~ *secretary* may in that capacity
16 bring an action in a court of competent jurisdiction or other process
17 against such person to enjoin, restrain or prevent such person from con-
18 tinuing operation in violation of the Kansas pet animal act without regard
19 to whether administrative proceedings have been or may be instituted or
20 whether criminal proceedings may be or have been instituted.

21 Sec. 26. K.S.A. 47-1731 is hereby amended to read as follows: 47-
22 1731. (a) No dog or cat may be transferred to the permanent custody of
23 a prospective owner by a pound or animal shelter, as defined by K.S.A.
24 47-1701, and amendments thereto, or by a humane society, unless:

25 (1) Such dog or cat has been surgically spayed or neutered before the
26 physical transfer of the animal occurs; or

27 (2) the prospective owner signs an agreement to have the dog or cat
28 spayed or neutered and deposits with the pound or animal shelter funds
29 not less than the lowest nor more than the highest cost of spaying or
30 neutering in the community. Any funds deposited pursuant to such an
31 agreement shall be refunded to such person upon presentation of a writ-
32 ten statement signed by a licensed veterinarian that the dog or cat has
33 been spayed or neutered. If such person does not reclaim the deposit
34 within six months after receiving custody of the animal, the pound or
35 animal shelter shall keep the deposit and may reclaim the unspayed or
36 unneutered animal.

37 (b) No person shall spay or neuter any dog or cat for or on behalf of
38 a pound or animal shelter unless such person is a licensed veterinarian
39 or a student currently enrolled in the college of veterinary medicine,
40 Kansas state university, who has completed at least two years of study in
41 the veterinary medical curriculum and is participating in a spay or neuter
42 program as part of the curriculum under the direct supervision of a li-
43 censed veterinarian who is a faculty member at the Kansas state university

1 veterinary medical center. The spay or neuter program shall only be con-
2 ducted at the surgery clinic at the Kansas state university medical center
3 in Manhattan, Kansas. No pound or animal shelter shall designate the
4 veterinarian which a person must use, or a list from which a person must
5 select a veterinarian, to spay or neuter a dog or cat transferred by such
6 person from such pound or animal shelter. Any premises located in the
7 state of Kansas where the spaying, neutering or any other practice of
8 veterinary medicine occurs shall register such premises with the board of
9 veterinary examiners.

10 (c) With the written approval of the ~~livestock commissioner~~ *secretary*
11 *of agriculture*, any pound or shelter may use an innovative spay or neuter
12 program not precisely meeting the requirements of subsection (a)(2), if
13 the pound or shelter can prove to the ~~commissioner~~ *secretary* that it is
14 actively enforcing the spaying and neutering requirements set forth in
15 this statute.

16 (d) Nothing in this section shall be construed to require sterilization
17 of a dog or cat which is being held by a pound or animal shelter and which
18 may be claimed by its rightful owner within the holding period established
19 in K.S.A. 47-1710, and amendments thereto.

20 (e) The ~~livestock commissioner~~ *secretary of agriculture* shall prom-
21 ulgate rules and regulations as may be necessary to carry out the provi-
22 sions of this section.

23 Sec. 27. K.S.A. 47-1732 is hereby amended to read as follows: 47-
24 1732. (a) Any licensee or permit holder required to be licensed or obtain
25 a permit under the Kansas pet animal act, who is in the process of ceasing
26 to do business on July 1, may be issued a temporary closing permit at the
27 discretion of the ~~commissioner~~ *secretary*.

28 (b) Application for such permit shall be made in writing on a form
29 provided by the ~~commissioner~~ *secretary*.

30 (c) The permit will be effective for 30 days. During the 30-day period,
31 the licensee or permit holder shall be required to comply with the Kansas
32 pet animal act and all rules and regulations adopted thereunder. By ac-
33 cepting such permit, the licensee or permit holder agrees to allow an
34 inspection of the facility at the end of the 30-day period to certify that
35 the operation has ceased business. The licensee or permit holder shall
36 provide records as to the disposition of the animals to the ~~commissioner~~
37 *secretary* upon request.

38 (d) The permit may be renewed, at the discretion of the ~~commis-~~
39 ~~sioner~~ *secretary*, for an additional 30-day period.

40 (e) This section shall be part of and supplemental to the Kansas pet
41 animal act.

42 Sec. 28. K.S.A. 47-1733 is hereby amended to read as follows: 47-
43 1733. (a) It shall be unlawful for any person to act as or be an animal

1 breeder unless such person has obtained from the ~~commissioner~~ *secretary*
2 an animal breeder license for each animal breeder premises operated by
3 such person. Application for each such license shall be made in writing
4 on a form provided by the ~~commissioner~~ *secretary*. The license period
5 shall be for the license year ending on June 30 following the issuance
6 date.

7 (b) This section shall be part of and supplemental to the Kansas pet
8 animal act.

9 Sec. 29. K.S.A. 47-1734 is hereby amended to read as follows: 47-
10 1734. (a) It shall be unlawful for any person to act as or be an out-of-state
11 distributor of dogs or cats, or both, within the state of Kansas unless such
12 person has obtained from the ~~commissioner~~ *secretary* an out-of-state dis-
13 tributor permit. Application for each such permit shall be made in writing
14 on a form provided by the ~~commissioner~~ *secretary*. The permit period
15 shall be for the permit year ending on June 30 following the issuance
16 date.

17 (b) This section shall be part of and supplemental to the Kansas pet
18 animal act.

19 Sec. 30. K.S.A. 47-1735 is hereby amended to read as follows: 47-
20 1735. (a) A licensee, permittee or applicant for a license or permit shall
21 not interfere with, hinder, threaten or abuse, including verbal abuse, any
22 representative or employee of the ~~animal health department~~ *Kansas de-*
23 *partment of agriculture* who is carrying out such representative's or em-
24 ployee's duties under the provisions of the Kansas pet animal act.

25 (b) This section shall be part of and supplemental to the Kansas pet
26 animal act.

27 Sec. 31. K.S.A. 47-1736 is hereby amended to read as follows: 47-
28 1736. (a) It shall be unlawful for any person to act as or be a retail breeder
29 unless such person has obtained from the ~~commissioner~~ *secretary* a retail
30 breeder license for each retail breeder premises operated by such person.
31 Application for each such license shall be made in writing on a form
32 provided by the ~~commissioner~~ *secretary*. The license period shall be for
33 the license year ending on June 30 following the issuance date.

34 (b) This section shall be part of and supplemental to the Kansas pet
35 animal act.

36 Sec. 32. K.S.A. 47-1701, 47-1702, 47-1703, 47-1704, 47-1708, 47-
37 1712, 47-1713, 47-1715, 47-1719, 47-1720, 47-1723, 47-1725, 47-1727,
38 47-1731, 47-1732, 47-1733, 47-1734, 47-1735 and 47-1736 and K.S.A.
39 2008 Supp. 47-1706, 47-1706a, 47-1707, 47-1709 and 47-1721 are hereby
40 repealed.

41 Sec. 33. This act shall take effect and be in force from and after its
42 publication in the statute book.