

Approved _____

Date

4/25/86

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by _____ Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m. ~~xxx~~ on April 1, 1986 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present:

J. Russell Mills, Jr., Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Dr. R. R. Domer, Topeka
Mr. James Sloan, Kansas Federation of Humane Societies
Representative Ginger Barr
Miss Audrey McCaig, Helping Hands Humane Society, Inc.
Mr. James Clark, Kansas County & District Attorneys Association
Ms. Cleo Murphy, Legislative Post Audit
Ms. Eileen McClintock, President, Topeka Kennel Club, Inc.
Ms. Frances Tutt, President, Heart of Jackson Humane Society, Inc.

HB2820 - Prosecutor's duties with respect to complaints alleging cruelty to animals.

Dr. R. R. Domer, Veterinarian, was introduced by the Chairman. Dr. Domer testified on this same bill before the House Committee. The bill concerns filing charges for the crime of cruelty to animals, and provides that upon filing of a sworn complaint by certain officers alleging such actions that the county or district attorney shall determine the validity of the complaint and file charges if valid. Dr. Domer, a proponent of the bill, explained an incident in which he had been involved in which cattle had been mistreated, had been committed to his care for a long period of time, the cost of which will be about \$10,000 to the taxpayers of Shawnee County. He said this bill would have alleviated the time and expense.

Mr. James Sloan was the next proponent. He represented the Kansas Federation of Humane Societies on the bill. A copy of his statement is Attachment #1. The Federation recommends passage of both HB2820 and HB2956 in it.

Representative Ginger Barr was introduced as proponent of HB2820. Her statement is Attachment #2, which explains that this bill would add an amendment to the existing cruelty laws concerning animals.

Senator Phil Martin spoke about concerns in his area pertaining to pets, telling about cruelty to animals which had had a very bad impact upon the citizens in his area. He expressed the importance of trying to get the county attorneys to work judiciously with the humane societies and the complaints that people are bringing before them.

Mr. James Clark, of Kansas County & District Attorneys Association, spoke as an opponent of HB2820. He said they certainly are not in favor of cruelty to animals. They oppose the bill simply because it singles out that particular crime and destroys the uniformity of the criminal code in general.

The Chairman said that would conclude the hearings on HB2830, and thanked the conferees for appearing.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m. ~~on~~ on April 1, 1986

HB2956 - Persons convicted of animal cruelty not eligible for certain licenses.

Representative Ginger Barr then appeared concerning HB2956. She showed a video tape from Channel 5 in Kansas City, Missouri, which dealt with Dr. Ernest Thomas, and the allegations that at his store at Overland Park there had been cruelty to animals.

Copies of her statement are Attachment #4. Also there was a handout for the Committee from Linda Meredith who is a proponent of both HB2820 and HB2956. (Attachment #3) In addition Representative Barr distributed copies of House Bill 2956, a balloon copy of which is Attachment #5. She explained these amendments.

In addition, Representative Barr referred to copies of a letter from Dr. Debra K. Anderson, in support of HB2956. This is Attachment #6. An Attachment #7 was also handed out by Representative Barr, which shows editorials from the KANSAS CITY TIMES in support of her views. An article from the TOPEKA CAPITAL JOURNAL is Attachment #8, also in support of the two bills, HB1820 and HB2956.

The next proponent of HB2956 was Miss Audrey B. McCaig, Executive Director, Helping Hands Humane Society, of Topeka. Miss McCaig's testimony is part of these Minutes as Attachment #9.

Ms. Cleo Murphy, of Legislative Post Audit, was present at the request of Representative Barr, to answer questions.

Ms. Eileen McClintock, President, of the Topeka Kennel Club, Inc., statement was next support of the proposed legislation. Her statement is Attachment #10.

Ms. Frances Tutt, President, of the Heart of Jackson Humane Society, Inc., has an attached statement, Attachment #11, in support of the legislation. She said it has the wholehearted support of her organization.

Mr. James Sloan also spoke in favor of SB2956, and which is indicated in his earlier statement.

The Chairman said this would conclude the hearing on both HB2820 and HB2956.

Senator Arasmith moved that the Minutes of March 25 and 27, 1986, be approved. 2d by Senator Martin. Motion carried.

SB718 - Terminals for use as part of statewide civil defense communications network.

The Chairman asked the Committed to turn its attention to SB718. Senator Strick moved that SB718 be recommended favorably for passage. 2d by Senator Walker. Motion carried.

The meeting was adjourned at noon.

James Sloan
Attachment #1
4/1/86

POSITION OF THE KANSAS FEDERATION OF HUMANE SOCIETIES

IN FAVOR OF HOUSE BILLS 2820 and 2956

The Kansas Federation of Humane Societies is in favor of House Bill 2956 in that it covers licensing of persons dealing with animals and is supplementary to and complimentary of the Federal acts concerning the licensing of persons dealing with animals. It is the position of the Federation that such legislation is needed in order to fully cover the activities currently carried on within this state that deal with the sale of animals. It is the position of the Federation that the present Federal legislation does not adequately cover all of the activities currently being carried on within this state, and that state legislation is needed to supplement the Federal legislation.

The Federation also strongly supports House Bill 2820, which provides for the care of mistreated animals and for their humane disposition if they are beyond recovery. The Federation is particularly supportive of Section (4) of the Bill in that the association has experienced in times past a lack of interest in prosecuting the crime of cruelty to animals by some of the prosecuting authorities. There have been instances where prosecuting authorities have refused to file charges of cruelty to animals because they "did not want to be bothered with that type of matter." Since the Federation and its member agencies are the only voice that the animals have, either in this body or before the Courts, it is the position of the Federation that such legislation is needed in order to avoid the situation where the prosecuting authority is "not interested" in such matters.

The Federation strongly recommends the passage of both of these bills and a favorable report by the Committee to the Senate.

4/1/86
Attachment #2

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P.O. BOX 58
AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: GOVERNMENTAL ORGANIZATION
MEMBER: ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

Testimony by: Representative Ginger Barr

RE: House Bill 2820

Committee: Senate Federal and State Affairs

Date: April 1, 1986

Mr. Chairman and Members of the Committee:

House Bill 2820 would add an amendment to the existing cruelty laws concerning animals. One Page 2 of the bill beginning with line 47, you will read the following amendment:

(4) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in K.S.A. 21-4311 and amendments thereto, the county or district attorney shall immediately determine the validity of the complaint and shall immediately file charges for the crime if the complaint appears to be valid.

The "peanut" of the amendment begins on line 52 which states "the county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid.

The reason why I approached the committee to introduce House bill 2820 is due to a conversation I had with Senator Phil Martin concerning problems with our existing cruelty laws. In some areas

there have been problems where there has been abuse to animals, but it was difficult to press any charges due to the lack of expediency by some county and district attorneys. For example, the Humane Society of Hoyt, Kansas, experienced a problem in sub-zero winter weather in 1984. The following letter was written to Senator Martin on March 11, 1985:

"An absentee owner (in Topeka) of cattle pastured in Hoyt and also west of Mayetta was not caring for the cattle. During about a 2-month period, 50 calves and cattle died of starvation and no water in the Hoyt pasture.

Neighbors in the areas contacted the sheriff and the county attorney and the owner. The humane society and neighbors were given the run around. The sheriff, as a boy, worked for and knew him. The then county attorney advised the humane society to get a veterinarian to drive by and observe and give him an opinion that the cattle were dying of malnutrition. Common sense told us we couldn't get a veterinarian to stake his reputation on a drive by observation without an autopsy of the cattle. The owner's own veterinarian told him the cattle were suffering from malnutrition and it was doubtful they would pull through.

The owner would send someone to feed to cattle periodically after repeated calls from the humane society and the sheriff. We finally contacted our attorney, James W. Sloan, in Topeka to see how we could correct this situation. By this time, about

two and a half months later, after 50 cattle had died at Hoyt, the owner was having the cattle fed regularly and spring grass was coming on, so nothing was done.

When the undersheriff investigated the owner's cattle west of Mayetta, during the same winter, the neighbors indicated his total indifference was summed up when he said, 'He (the owner) always does this'.

We feel the humane laws on the Kansas Statutes deserve to be enforced and not put on the back burner."

Another reason for working with Senator Martin on this particular piece of legislation, is my concern of what has been raised in our committee concerning pari-mutuel wagering. There has been concern by some people that pari-mutuel wagering could be harmful to animals. I feel that if we have a very rigid law concerning the cruelty to animals, then we would not have to worry about whether someone will or will not prosecute.

Thank you for your time and consideration in this matter, and if you have any questions, I would be more than happy to answer them.

4/1/86
Attachment #3

March 31, 1986
2207 SE Shawnee Drive
Topeka, KS 66605

Senator Ed Reilly, Jr.
Chairman, Federal & State Affairs
State Capitol
Topeka, KS 66612

Dear Senator Reilly:

After watching a KCTV, Channel 5 series, "Pet Store Slaughter", I strongly feel we need to change our animal cruelty laws.

At present, if someone is convicted of animal cruelty, the person could receive a jail sentence, a fine, or both. Most of the time the sentence is suspended. Therefore, the punishment for animal cruelty is not stiff enough. This bill clearly defines the crimes and punishments of animal cruelty, and I strongly urge you to vote in favor of House Bill 2956.

The amendment to this bill is a very favorable one. Not only will it bring more revenue to the state in licensing fees, but also in sales tax. It will also bring puppy mills under the law, who formerly were exempt if they were on a residential premises. It would also change the horrible puppy mill reputation Kansas has because they would be brought under Kansas law.

Please consider H.B. 2820 for favorable passage along with this bill.

Sincerely,

Linda Meredith

Linda Meredith

STATE OF KANSAS

4/1/86
Attachment #4

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P.O. BOX 58
AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN: GOVERNMENTAL ORGANIZATION
MEMBER: ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

Testimony by: Representative Ginger Barr

RE: House Bill 2956

Committee: Senate Federal and State Affairs

Date: April 1, 1986

Mr. Chairman and Members of the Committee:

I appreciate the time to appear before you today concerning House Bill 2956, which deals with the abuse of animals and misrepresentation of sales practices concerning animals. This summer I was contacted by a woman in Shawnee County concerning a television series she viewed on KCTV, Channel 5, Kansas City, Missouri. She stated to me that the television series had stated that a licensed veterinarian and operator of a pet store in the Oak Park Mall in Overland Park, Kansas was being accused of cruelty of animals. Also, this person was involved in a kennel in Soldier, Kansas, which is around the Holton area. It was a wonderment to her that one could perhaps be convicted of cruelty to animals and lose their license, but turn around and deal with animals in another manner.

House Bill 2956 tries to address this problem. The sponsors tried to pattern the bill after the child abuse laws. In my opinion, if a person is convicted of child abuse, they should not work in a day-care center. The same is true in animal cruelty. If you are a licensed person who deals with animals or employed by a veterinarian, pound, animal shelter, research facility, animal dealer, or pet shop operator, then you would fall under this particular piece of legislation.

Pages 1 - 6 deal with the expungement procedures of municipalities and the state. On page 7, even if you have expungement, you need to disclose it in your application form.

Section 3 gives the ability for a veterinarian's license to be revoked. Section 4 deals with revocation of a license for a pound or animal shelter; while Section 5 deals with the revocation of a pet dealer's license or pet shop license.

I think that it should be brought out that under current law, the veterinarian's license can be taken away due to cruelty of animals; and the same is true with the dealer's license or the pet shop license. Therefore, the basic intent of the law is not being changed. However, it now includes employees of licensed individuals.

Dr. Debbie Anderson, owner of the Westport Animal Clinic in Topeka, Kansas, appeared before the House Federal and State Affairs Committee in support of H.B. 2956. Since she was unable to appear before the committee today due to a conflict in her schedule, she did prepare a written statement of her support.

After the passage of H.B. 2956 through the House of Representatives, I was made aware of a loop-hole in the bill. Therefore, I would like to present to the committee amendments at this time.

The intent of the amendments are to make sure that everyone who runs a business dealing with dogs and cats is licensed by the State in some manner. We DO NOT want to license people who only have a litter of dogs or cats either through planned parenthood or non-planned parenthood!

Amendment (r) on Page 13 states a new category of "Residential Kennel" which is self-explanatory. The fee for this new license would be \$15.00.

In review, the bill if amended would do the following:

1. A person having one litter of pups or kittens per year would not need a license.

2. A person having between two and five litters per year would pay a license fee of \$15.00.
3. A person having more than five litters of pups and kittens per year would pay a license of \$100.00.

Thank you for your time and I would be happy to answer any questions.

HOUSE BILL No. 2956

By Representatives Barr, Aylward, Baker, Cloud, Duncan, Eckert, Fox, Jenkins, Johnson, King, Mayfield, R.D. Miller, R.H. Miller, Nichols, Pottorff, Sand, Smith, Sughrue, Vancrum and Webb

2-12

AN ACT concerning animals; relating to ~~qualifications for licensure or registration~~ of certain persons and facilities dealing with animals; amending K.S.A. ~~47-1705 and 47-1706~~ 47-1701, 47-1702, 47-1704, 47-1705, 47-1706, 47-1709, 47-1710, 47-1712, ~~47-1716~~ and 47-1718 and K.S.A. 1985 Supp. 12-4516, 21-4619 and 47-830 and repealing the existing sections ~~47-1714,~~ ; also repealing K.S.A. 47-1707 and 47-1708

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

Section 1. K.S.A. 1985 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) Except as provided in subsection (b), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person:

- (1) Satisfied the sentence imposed; or
- (2) was discharged from probation, parole or a suspended sentence.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

- (1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto;
- (2) a violation of K.S.A. 8-1567 and amendments thereto;
- (3) driving while the privilege to operate a motor vehicle on

4/1/86
Attachment #5

9 the public highways of this state has been cancelled, suspended
0050 or revoked, as prohibited by K.S.A. 8-262 and amendments
0051 thereto;

0052 (4) perjury resulting from a violation of K.S.A. 8-261a and
0053 amendments thereto;

0054 (5) a violation of the provisions of the fifth clause of K.S.A.
0055 8-142 and amendments thereto, relating to fraudulent applica-
0056 tions;

0057 (6) any crime punishable as a felony wherein a motor vehicle
0058 was used in the perpetration of such crime;

0059 (7) failing to stop at the scene of an accident and perform the
0060 duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amend-
0061 ments thereto; or

0062 (8) a violation of the provisions of K.S.A. 40-3104 and
0063 amendments thereto, relating to motor vehicle liability insur-
0064 ance coverage.

0065 (c) When a petition for expungement is filed, the court shall
0066 set a date for a hearing thereon and shall give notice thereof to
0067 the prosecuting attorney. The petition shall state: (1) The de-
0068 fendant's full name; (2) the full name of the defendant at the time
0069 of arrest and conviction, if different than the defendant's current
0070 name; (3) the defendant's sex, race, and date of birth; (4) the
0071 crime for which the defendant was convicted; (5) the date of the
0072 defendant's conviction; and (6) the identity of the convicting
0073 court. A municipal court may prescribe a fee to be charged as
0074 costs for a person petitioning for an order of expungement
0075 pursuant to this section. Any person who may have relevant
0076 information about the petitioner may testify at the hearing. The
0077 court may inquire into the background of the petitioner and shall
0078 have access to any reports or records relating to the petitioner
0079 that are on file with the secretary of corrections or the Kansas
0080 adult authority.

0081 (d) At the hearing on the petition, the court shall order the
0082 petitioner's conviction expunged if the court finds:

0083 (1) That the petitioner has not been convicted of a felony in
0084 the past two years and no proceeding involving any such crime is
0085 presently pending or being instituted against the petitioner;

086 (2) that the circumstances and behavior of the petitioner
087 warrant the expungement; and

088 (3) that the expungement is consistent with the public wel-
089 fare.

090 (e) When the court has ordered a conviction expunged, the
091 order of expungement shall state the information required to be
092 contained in the petition. The clerk of the court shall send a
093 certified copy of the order of expungement to the federal bureau
094 of investigation, the Kansas bureau of investigation, the secretary
095 of corrections and any other criminal justice agency which may
096 have a record of the conviction. After the order of expungement
097 is entered, the petitioner shall be treated as not having been
098 convicted of the crime, except that:

099 (1) Upon conviction for any subsequent crime, the conviction
100 that was expunged may be considered as a prior conviction in
101 determining the sentence to be imposed;

102 (2) the petitioner shall disclose that the conviction occurred
103 if asked about previous convictions (A) in any application for
104 employment as a detective with a private detective agency, as
105 defined by K.S.A. 75-7b01 and amendments thereto; as security
106 personnel with a private patrol operator, as defined by K.S.A.
107 75-7b01 and amendments thereto; with a criminal justice agency,
108 as defined by K.S.A. 22-4701 and amendments thereto; or with
109 an institution, as defined in K.S.A. 76-12a01 and amendments
110 thereto, of the department of social and rehabilitation services;

111 ~~or~~ (B) *in any application for licensure as or employment with a*
112 *veterinarian, pound, animal shelter, research facility, animal*
113 *dealer or pet shop operator; or (C) in any application for admis-*
114 *sion, or for an order of reinstatement, to the practice of law in this*
115 *state;*

116 (3) the court, in the order of expungement, may specify other
117 circumstances under which the conviction is to be disclosed; and

118 (4) the conviction may be disclosed in a subsequent prose-
119 cution for an offense which requires as an element of such
120 offense a prior conviction of the type expunged.

121 (f) Whenever a person is convicted of an ordinance violation,
122 pleads guilty and pays a fine for such a violation or is placed on

, residential kennel

0123 parole or probation or is given a suspended sentence for such a
 0124 violation, the person shall be informed of the ability to expunge
 0125 the conviction.

0126 (g) Subject to the disclosures required pursuant to subsection
 0127 (e), in any application for employment, license or other civil right
 0128 or privilege, or any appearance as a witness, a person whose
 0129 conviction of an offense has been expunged under this statute
 0130 may state that such person has never been convicted of such
 0131 offense.

0132 (h) Whenever the record of any conviction has been ex-
 0133 punged under the provisions of this section or under the provi-
 0134 sions of any other existing or former statute, the custodian of the
 0135 records of arrest, conviction and incarceration relating to that
 0136 crime shall not disclose the existence of such records, except
 0137 when requested by:

0138 (1) The person whose record was expunged;

0139 (2) a criminal justice agency, private detective agency or a
 0140 private patrol operator, and the request is accompanied by a
 0141 statement that the request is being made in conjunction with an
 0142 application for employment with such agency or operator by the
 0143 person whose record has been expunged;

0144 (3) a court, upon a showing of a subsequent conviction of the
 0145 person whose record has been expunged;

0146 (4) the secretary of social and rehabilitation services, or a
 0147 designee of the secretary, for the purpose of obtaining informa-
 0148 tion relating to employment in an institution, as defined in K.S.A.
 0149 76-12a01 and amendments thereto, of the department of social
 0150 and rehabilitation services of any person whose record has been
 0151 expunged;

0152 (5) a person entitled to such information pursuant to the
 0153 terms of the expungement order;

0154 (6) a prosecuting attorney, and such request is accompanied
 0155 by a statement that the request is being made in conjunction with
 0156 a prosecution of an offense that requires a prior conviction as one
 0157 of the elements of such offense; ~~or~~

0158 (7) The supreme court, the clerk or disciplinary administrator
 0159 thereof, the state board for admission of attorneys or the state

2956d

a veterinarian, pound, animal shelter, research facility, animal
 dealer, pet shop operator or residential kennel, and the request
 is accompanied by a statement that the request is being made in
 conjunction with an application for employment with such
 veterinarian, pound, animal shelter, research facility, animal
 dealer, pet shop operator or residential kennel;

(8) the state board of veterinary examiners or the
 livestock commissioner, for the purpose of registration or
 licensure pursuant to the Kansas veterinary practice act or
 pursuant to K.S.A. 47-1701 through 47-1717, and amendments
 thereto, or section 13; or

(9)

board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged.

Sec. 2. K.S.A. 1985 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) Except as provided in subsection (b), any person convicted in this state of a traffic infraction, misdemeanor or a class D or E felony may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person: (1) Satisfied the sentence imposed; or (2) was discharged from probation, parole, conditional release or a suspended sentence.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567 and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been cancelled, suspended or revoked, as prohibited by K.S.A. 8-262 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a and amendments thereto or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142 and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle

0197 was used in the perpetration of such crime;

0198 (7) failing to stop at the scene of an accident and perform
0199 duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amer
0200 ments thereto, or required by a law of another state which is
0201 substantial conformity with those statutes; or

0202 (8) violating the provisions of K.S.A. 40-3104 and amer
0203 ments thereto, relating to motor vehicle liability insurance co
0204 erage.

0205 (c) When a petition for expungement is filed, the court sh
0206 set a date for a hearing thereon and shall give notice thereof
0207 the prosecuting attorney. The petition shall state: (1) The c
0208 fendant's full name; (2) the full name of the defendant at the ti
0209 of arrest and conviction, if different than the defendant's curre
0210 name; (3) the defendant's sex, race and date of birth; (4) t
0211 crime for which the defendant was convicted; (5) the date of t
0212 defendant's conviction; and (6) the identity of the convicti
0213 court. There shall be no docket fee for filing a petition pursu
0214 to this section. All petitions for expungement shall be docket
0215 in the original criminal action. Any person who may have re
0216 vant information about the petitioner may testify at the hearin
0217 The court may inquire into the background of the petitioner a
0218 shall have access to any reports or records relating to the pe
0219 tioner that are on file with the secretary of corrections or t
0220 Kansas adult authority.

0221 (d) At the hearing on the petition, the court shall order t
0222 petitioner's conviction expunged if the court finds that:

0223 (1) The petitioner has not been convicted of a felony in t
0224 past two years and no proceeding involving any such crime
0225 presently pending or being instituted against the petitioner;

0226 (2) the circumstances and behavior of the petitioner warra
0227 the expungement; and

0228 (3) the expungement is consistent with the public welfar

0229 (e) When the court has ordered a conviction expunged, tl
0230 order of expungement shall state the information required to l
0231 contained in the petition. The clerk of the court shall send
0232 certified copy of the order of expungement to the federal bure
0233 of investigation, the Kansas bureau of investigation, the secreta:

234 of corrections and any other criminal justice agency which may
235 ve a record of the conviction. After the order of expungement
236 is entered, the petitioner shall be treated as not having been
237 convicted of the crime, except that:

0238 (1) Upon conviction for any subsequent crime, the conviction
0239 that was expunged may be considered as a prior conviction in
0240 determining the sentence to be imposed;

0241 (2) the petitioner shall disclose that the conviction occurred
0242 if asked about previous convictions (A) in any application for
0243 employment as a detective with a private detective agency, as
0244 defined by K.S.A. 75-7b01 and amendments thereto; as security
0245 personnel with a private patrol operator, as defined by K.S.A.
0246 75-7b01 and amendments thereto; with a criminal justice agency,
0247 as defined by K.S.A. 22-4701 and amendments thereto; or with
0248 an institution, as defined in K.S.A. 76-12a01 and amendments
0249 thereto, of the department of social and rehabilitation services;

0250 or (B) in any application for licensure as or employment with a
0251 veterinarian, pound, animal shelter, research facility, animal
0252 dealer for pet shop operator; or (C) in any application for admis-
0253 sion, or for an order of reinstatement, to the practice of law in this
0254 state;

0255 (3) the court, in the order of expungement, may specify other
0256 circumstances under which the conviction is to be disclosed;

0257 (4) the conviction may be disclosed in a subsequent prose-
0258 cution for an offense which requires as an element of such
0259 offense a prior conviction of the type expunged; and

0260 (5) upon commitment to the custody of the secretary of cor-
0261 rections, any previously expunged record in the possession of
0262 the secretary of corrections may be reinstated and the expunge-
0263 ment disregarded, and the record continued for the purpose of
0264 the new commitment.

0265 (f) Whenever a person is convicted of a crime, pleads guilty
0266 and pays a fine for a crime or is placed on parole or probation or
0267 is given a suspended sentence or conditional release, the person
0268 shall be informed of the ability to expunge the conviction.

0269 (g) Subject to the disclosures required pursuant to subsection
0270 (e), in any application for employment, license or other civil right

, residential kennel

0271 or privilege, or any appearance as a witness, a person whose
 0272 conviction of a crime has been expunged under this statute may
 0273 state that such person has never been convicted of such crime,
 0274 but the expungement of a felony conviction does not relieve an
 0275 individual of complying with any state or federal law relating to
 0276 the use or possession of firearms by persons convicted of a
 0277 felony.

0278 (h) Whenever the record of any conviction has been ex-
 0279 punged under the provisions of this section or under the provi-
 0280 sions of any other existing or former statute, the custodian of the
 0281 records of arrest, conviction and incarceration relating to that
 0282 crime shall not disclose the existence of such records, except
 0283 when requested by:

0284 (1) The person whose record was expunged;

0285 (2) a criminal justice agency, private detective agency or a
 0286 private patrol operator, and the request is accompanied by a
 0287 statement that the request is being made in conjunction with an
 0288 application for employment with such agency or operator by the
 0289 person whose record has been expunged;

0290 (3) a court, upon a showing of a subsequent conviction of the
 0291 person whose record has been expunged;

0292 (4) the secretary of social and rehabilitation services, or a
 0293 designee of the secretary, for the purpose of obtaining informa-
 0294 tion relating to employment in an institution, as defined in K.S.A.
 0295 76-12a01 and amendments thereto, of the department of social
 0296 and rehabilitation services of any person whose record has been
 0297 expunged;

0298 (5) a person entitled to such information pursuant to the
 0299 terms of the expungement order;

0300 (6) a prosecuting attorney, and such request is accompanied
 0301 by a statement that the request is being made in conjunction with
 0302 a prosecution of an offense that requires a prior conviction as one
 0303 of the elements of such offense; ~~or~~

0304 (7) the supreme court, the clerk or disciplinary administrator
 0305 thereof, the state board for admission of attorneys or the state
 0306 board for discipline of attorneys, and the request is accompanied
 0307 by a statement that the request is being made in conjunction with

2956d

a veterinarian, pound, animal shelter, research facility, animal
 dealer, pet shop operator or residential kennel, and the request
 is accompanied by a statement that the request is being made in
 conjunction with an application for employment with such
 veterinarian, pound, animal shelter, research facility, animal
 dealer, pet shop operator or residential kennel;

(8) the state board of veterinary examiners or the
 livestock commissioner, for the purpose of registration or
 licensure pursuant to the Kansas veterinary practice act or
 pursuant to K.S.A. 47-1701 through 47-1717, and amendments
 thereto, or section 13; or

(9)

an application for admission, or for an order of reinstatement, to practice of law in this state by the person whose record has been expunged.

Sec. 3. K.S.A. 1985 Supp. 47-830 is hereby amended to read as follows: 47-830. (a) Upon written complaint sworn to by any person, the board may, after a *notice and an opportunity for hearing* conducted in accordance with the provisions of the Kansas administrative procedure act, and by a concurrence of four members, revoke or suspend for a certain time the license of, or otherwise discipline, any licensed veterinarian for any of the following reasons:

- (a) (1) The employment of fraud, misrepresentation or deception in obtaining a license;
- (a) (2) an adjudication of incapacity by a court of competent jurisdiction;
- (a) (3) habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit forming drugs; or conviction of a violation of any federal or state law relating to narcotic drugs;
- (a) (4) the publication or use of any untruthful or improper statement, or representation, with a view of deceiving the public, or any client or customer in connection with the practice of veterinary medicine;
- (a) (5) conviction of a felony;
- (a) (6) gross malpractice, including failure to furnish to the board, upon written application by it, any report or information relating thereto;
- (a) (7) employing any person practicing veterinary medicine unlawfully;
- (a) (8) fraud or dishonest conduct in applying or reporting diagnostic biological tests or in issuing health certificates;
- (a) (9) failure to keep veterinary premises and equipment in a clean and sanitary condition;
- (a) (10) failure to report as required by law, or making false report of any contagious or infectious disease;
- (a) (11) dishonesty or gross negligence in the inspection of

0345 (l) conviction on a charge of cruelty or inhumane treatment to
0346 animals;

0347 (m) (12) revocation of a license to practice veterinary medi-
0348 cine by another state, territory or district of the United States on
0349 grounds other than nonpayment of registration fees; or

0350 (n) (13) unprofessional conduct as defined in rules and regu-
0351 lations adopted by the board.

0352 (b) The board, after notice and an opportunity for hearing in
0353 accordance with the Kansas administrative procedures act,
0354 shall refuse to issue or renew a veterinarian's license, and shall
0355 revoke such a license, if the applicant or licensee, or any em-
0356 ployee thereof, has been convicted of committing any act in-
0357 volving cruelty to or inhumane treatment of an animal unless, in
0358 the case of an employee, such employee is promptly dismissed
0359 upon receipt of knowledge of the adjudication or conviction.

0360 Sec. 4. K.S.A. 47-1701 is hereby amended to read as follows:
0361 47-1701. As used in this act, unless the context otherwise re-
0362 quires, the following words and phrases shall have the meanings
0363 respectively ascribed as follows:

0364 (a) "Commissioner" means the livestock commissioner, ap-
0365 pointed by the Kansas animal health department [board];

0366 (b) "Animal dealer" means any person not licensed under
0367 public law 91-579 who sells, exchanges, offers to sell or offers to
0368 exchange; any animal; to either a dealer holding a federal license
0369 under public law 91-579 or a federally registered research facil-
0370 ity; [or any person licensed pursuant to K.S.A. 47-1701 through
0371 47-1717 and amendments thereto] but shall not mean or include
0372 any person who ~~(1) Exclusively sells or donates any animal~~
0373 ~~which has been born on his or her such person's residence~~
0374 ~~premises, and which has been raised on such premises, or who,~~
0375 ~~or (2) sells or donates any animal which he or she such person~~
0376 ~~has owned and retained on his or her such person's residence~~
0377 ~~premises, for a period of ninety (90) 90 days or longer;~~

0378 (c) "Research facility" means any place, laboratory or insti-
0379 tution, except an elementary school, secondary school or a
0380 college or university, at which any scientific test, experiment, c
0381 investigation involving the use of any living animal is carried

2956a

exclusively sells, exchanges, offers to sell or offers to exchange: (1) Animals, other than cats or dogs, which have been born and raised on the person's residence premises or which the person has owned and retained on the person's residence premises, for a period of 90 days or longer; or (2) five or fewer litters of dogs or cats, or both, during the calendar year, which litters have been born and raised on the person's residence premises or which litters the person has owned and retained on the person's residence premises for a period of 90 days or longer

02 or conducted, or attempted.

03 (d) "Animal" means any live dog, cat, rabbit, rodent, nonhu-
04 man primate, bird or other warm-blooded vertebrate; but shall
05 ~~exclude not include~~ horses, cattle, sheep, goats, swine and do-
06 mestic fowl.

07 (e) "Exotic pet animal" means any fish, snake or other cold-
08 blooded animal.

09 (f) ~~"Pound"~~ "Animal shelter" means a facility: (1) Operated
10 by a ~~the~~ state, or any political subdivision thereof, for the pur-
11 pose of impounding or harboring any seized stray, homeless or
12 abandoned animal; ~~or a facility~~ (2) operated for such a purpose
13 under contract with any municipality or incorporated society for
14 the prevention of cruelty to animals; or by ~~either another~~ person
15 or entity under contract with such municipality.

16 (g) ~~"Animal shelter"~~ means a facility which is or (3) used or
17 designed for use to house or contain any animal; ~~and which is~~
18 ~~and~~ owned, operated or maintained by a duly incorporated
19 humane society, animal welfare society, society for the preven-
20 tion of cruelty to animals; or other nonprofit corporate organiza-
21 tion devoted to the welfare, protection and humane treatment of
22 animals.

23 (h) (g) "Primary enclosure" means any structure used or
24 designed for use to restrict any animal to a limited amount of
25 space, such as a room, pen, cage, compartment or hutch.

26 (i) (h) "Housing facility" means any room, building, or area
27 used to contain a primary enclosure or enclosures.

28 (j) (i) "Sanitize" means to make physically clean and to re-
29 move and destroy, to a practical minimum, agents injurious to
30 health.

31 (k) (j) "Euthanasia" means the humane destruction of an
32 animal, which may be accomplished by any of those methods
33 provided for in K.S.A. 47-1718; and amendments thereto.

34 (l) (k) "Ambient temperature" means the temperature sur-
35 rounding the animal.

36 (m) (l) "Adequate feeding" means supplying at suitable in-
37 tervals (not to exceed 24 hours) of a quantity of wholesome
38 foodstuff, suitable for the animal species and age, and sufficient

041 to maintain a reasonable level of nutrition in each animal;

0420 (n) (m) "Adequate watering" means a constant supply of
 0421 clean, fresh, potable water, supplied in a sanitary manner and
 0422 continuously accessible to each animal; or such water or sup-
 0423 plied at suitable intervals for the animal species, and not to
 0424 exceed twenty-four (24) hour intervals; *intervals of 24 hours.*

0425 (o) (n) "Dog warden" means any person employed *by*, con-
 0426 tracted *with* or appointed by the state, or any political subdivi-
 0427 sion thereof, for the purpose of aiding in the enforcement of this
 0428 law, or of any other law or ordinance; relating to the licensing of
 0429 animals, control of animals; or seizure and impoundment of
 0430 animals; and includes any state, *county* or municipal ~~peace~~ *law*
 0431 *enforcement* officer, animal control officer, sheriff, constable or
 0432 other employee, whose duties in whole or in part, include
 0433 assignments which involve the seizure *of* or taking into custody
 0434 of any animal;

0435 (p) (o) "Respondent" means any applicant for issuance or
 0436 renewal of an animal dealer license or a pet shop license, and
 0437 any holder of an animal dealer license or a pet shop license, any
 0438 of whom *who* is named to appear in a hearing for refusal to issue,
 0439 or for suspension or ~~for~~ revocation; of such license;

0440 (r) (p) "Pet shop" means any premises where animals or
 0441 exotic pet animals are sold, exchanged, offered for sale or offered
 0442 for exchange but shall not mean or include any premises where
 0443 only fish are offered for sale or exchange; *or any residence*
 0444 ~~premises where the animals offered for sale or exchange are~~
 0445 ~~exclusively those which have been born and raised on such~~
 0446 ~~premises or are animals which have been owned and retained on~~
 0447 ~~such residence premises for a period of ninety (90) 90 days or~~
 0448 ~~longer.~~

0449 (r) (q) "Pet shop operator" means any person who sells,
 0450 exchanges, offers to sell or offers to exchange animals or exotic
 0451 pet animals; but shall not include any person who sells only fish
 0452 ~~or, who sells only animals born and raised on his or her such~~
 0 ~~person's residence premises nor shall the term include any~~
 0454 ~~person or who sells only animals which he or she such person~~
 0455 ~~has owned and retained on his or her such person's residence~~

2956b

only the householder sells, exchanges, offers for sale or offers for exchange any animal and where the only animals sold, exchanged, offered for sale or offered for exchange are: (1) Animals, other than cats or dogs, which have been born and raised on the premises or which the householder has owned and retained on the premises for a period of 90 days or longer; or (2) cats and dogs, or both, of which five or fewer litters are sold, exchanged, offered for sale or offered for exchange during the calendar year and which have been born and raised on the premises or which the householder has owned and retained on the premises for a period of 90 days or longer,

5 p. ~~ises for a period of ninety (90) 90 days or longer.~~

7 Sec. 5. K.S.A. 47-1702 is hereby amended to read as follows:

8 47-1702. (a) It shall be unlawful for any person other than one
 9 licensed under public law 91-579 to act as or be an animal dealer
 0 after January 1, 1973, to act as or be an animal dealer in this
 1 state unless a license to be an animal dealer is granted to such
 2 person by the commissioner. Application for such license shall
 3 be made in writing on a form provided by the commissioner. The
 4 license period shall be for the current fiscal year ending on June
 5 30, following issuance date. The license fee shall be one hun-
 6 dred dollars (\$100) \$100 for each license period, or part thereof.
 7 The license fee shall accompany the application for the original
 8 license or the renewal license and shall not be refundable in the
 9 event that a license is not granted.

0 (b) The commissioner shall remit all moneys received by or
 1 for the commissioner under this section or K.S.A. 47-1703 and
 2 amendments thereto to the state treasurer at least monthly. Upon
 3 receipt of each such remittance the state treasurer shall deposit
 4 the entire amount thereof in the state treasury and such amount
 5 shall be credited to the animal health department fee fund.

6 Sec. 6. K.S.A. 47-1704 is hereby amended to read as follows:
 7 47-1704. It shall be unlawful for any city of the first class, or the
 8 officials thereof to operate a pound, or any corporate entity to
 9 operate an animal shelter as a pound after January 1, 1973, unless
 0 a certificate of registration for such pound or animal shelter shall
 1 have *has* been granted by the commissioner. Application for
 2 such certificate shall be made on a form provided by the com-
 3 missioner. A fee shall not be required for such application or
 4 certificate. Certificates of registration shall be valid for a period
 5 of five (5) years from July 1 of current fiscal year in which issued,
 6 unless earlier revoked. Such certificates may be renewed for a
 7 like period, upon application in the manner provided.

8 Sec. 4 7. K.S.A. 47-1705 is hereby amended to read as fol-
 9 lows: 47-1705. (a) A certificate of registration may be denied for
 0 an pound, animal shelter or research facility. If granted, such
 1 certificate may be suspended or revoked by the commissioner.
 2 Any such denial, suspension or revocation shall be had only after

or any person who exclusively sells, exchanges, offers to sell or
 offers to exchange: (1) Animals, other than cats or dogs, which
 have been born and raised on the person's residence premises or
 which the person has owned and retained on the person's residence
 premises for a period of 90 days or longer; or (2) five or fewer
 litters of dogs or cats, or both, during the calendar year, which
 litters have been born and raised on the person's residence
 premises or which litters the person has owned and retained on
 the person's residence premises for a period of 90 days or longer
 (r) "Residential kennel" means any residence premises where
 the householder sells, exchanges, offers for sale or offers for
 exchange in the calendar year more than one but less than six
 litters of cats or dogs, or both, which have been born and raised
 on the premises or which have been owned by the householder and
 have been retained on the premises for a period of 90 days or
 longer.

093 a hearing notice and an opportunity for hearing in accordance
 094 with the Kansas administrative procedures act, and after a
 095 determination that the housing facility or the primary enclosure
 096 is inadequate, or that the feeding, watering, sanitizing, and
 097 housing practices at the pound, animal shelter or research facil-
 098 ity, are not consistent with this act, or the rules and regulations
 099 adopted hereunder.

100 (b) The commissioner, after notice and an opportunity for
 101 hearing in accordance with the Kansas administrative proce-
 102 dures act, shall refuse to issue or renew a certificate of regis-
 103 tration for any pound, animal shelter or research facility, and
 104 shall revoke such a certificate, if any officer or employee thereof
 105 has been adjudicated or convicted of any act involving cruelty
 106 to or inhumane treatment of an animal unless such officer or
 107 employee is promptly dismissed upon receipt of knowledge of
 108 the adjudication or conviction.

109 Sec. 5 8. K.S.A. 47-1706 is hereby amended to read as fol-
 110 lows: 47-1706. (a) The commissioner, after notice and an op-
 111 portunity for hearing in accordance with the Kansas adminis-
 112 trative procedures act, may refuse to issue or renew an animal
 113 dealer's license or a pet shop operator's license, or he may
 114 suspend or revoke an animal dealer's license or a pet shop
 115 operator's license for any one or more of the following reasons:

- 116 (a) (1) Material misstatement in the application for the origi-
 117 nal license, or in the application for any renewal of a license;
 118 (b) (2) willful disregard of any provision of this act or any rule
 119 and regulation adopted hereunder, or any willful aiding or abet-
 120 ting of another in the violation of any provision of this act or of
 121 any rule and regulation adopted hereunder;
 122 (c) (3) permitting any license issued hereunder to be used by
 123 an unlicensed person, or transferred to unlicensed premises;
 124 (d) (4) the conviction of any crime, an essential element of
 125 which is misstatement, fraud or dishonesty, or relating to the
 126 theft of or cruelty to animals;
 127 (e) (5) substantial misrepresentation;
 128 (f) (6) misrepresentation or false promise, made through ad-
 129 vertising, salesmen, agents or otherwise, in connection with the

, a residential kennel license

such a

0 continuation of business of animal dealer;

1 (g) (7) fraudulent bill of sale;

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

3 (i) (9) the feeding, watering, sanitizing and housing practices at the dealer's premises are not consistent with this act or the rules and regulations adopted hereunder.

4 (b) The commissioner, after notice and an opportunity for hearing in accordance with the Kansas administrative procedures act, shall refuse to issue or renew an animal dealer's license or pet shop operator's license, and shall revoke such a license, if the dealer or operator, or any officer or employee thereof, has been adjudicated or convicted of committing any act involving cruelty to or inhumane treatment of an animal unless, in the case of an officer or employee, such officer or employee is promptly dismissed upon receipt of knowledge of the adjudication or conviction.

5 Sec. 9. K.S.A. 47-1709 is hereby amended to read as follows:

6 47-1709. The commissioner or his the commissioner's authorized representative shall make regular inspections of the premises of each licensed animal dealer, registered pound, animal shelter, licensed pet shop and each research facility. The commissioner is hereby authorized to designate and appoint the city health officer of any city or in the absence of a city health officer, the county health officer of the county, as his the commissioner's authorized representative for the purpose of making inspections within such counties and cities. Records of these inspections shall be maintained in the office of the Kansas animal health department.

7 Sec. 10. K.S.A. 47-1710 is hereby amended to read as follows: 47-1710. The governing body of a political subdivision regulating the operation of a pound an animal shelter shall determine the method of disposition of any animal released from such pound shelter. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

, residential kennel license

(a)

The commissioner or the commissioner's authorized representative shall make inspections of the premises of a licensed residential kennel upon the filing with the commissioner of a complaint alleging that grounds exist for suspension or revocation of the license for such kennel. ¶ (b)

(c) Records of inspections pursuant to this section

0568 The board of directors of any incorporated humane society
 0569 operating an animal shelter as a pound, under contract with a
 0570 municipality, shall determine the method of disposition of any
 0571 animal released from its animal shelter. Any proceeds derived
 0572 from such sale or disposition shall be paid directly to the trea-
 0573 surer of the humane society and no part of such proceeds shall

0574 An animal shall not be disposed of by an animal dealer,
 0575 operator of a pound or operator of an animal shelter as a pound
 0576 until after expiration of a minimum of three (3) days of custody
 0577 during which the public has clear access to inspect or recover the
 0578 animal through time periods ordinarily accepted as usual busi-
 0579 ness hours. Such an animal may at any time be released to the
 0580 legal owner, moved to a veterinary hospital for treatment or
 0581 observation, released in any manner, if such animal was a gift
 0582 animal to an animal shelter, or euthanized by a duly incorporated
 0583 humane society or by a licensed veterinarian if it appears to an
 0584 officer of such humane society or to such veterinarian that the
 0585 animal is diseased or disabled beyond recovery for any useful
 0586 purpose.

0587 Sec. 11. K.S.A. 47-1712 is hereby amended to read as fol-
 0588 lows: 47-1712. The commissioner is hereby authorized to adopt
 0589 rules and regulations necessary for the administration of this act.
 0590 Such regulations may include, but shall not be limited to:

- 0591 (a) Provisions relating to humane transportation to and from
 0592 registered or licensed premises;
- 0593 (b) records of purchase and sale;
- 0594 (c) identification of animals handled;
- 0595 (d) primary enclosures;
- 0596 (e) housing facilities;
- 0597 ~~(f)~~ Pounds;
- 0598 ~~(g)~~ (f) research facilities;
- 0599 ~~(h)~~ (g) sanitation;
- 0600 ~~(i)~~ (h) euthanasia;
- 0601 ~~(j)~~ (i) ambient temperatures;
- 0602 ~~(k)~~ (j) feeding;
- 0603 ~~(l)~~ (k) watering; and

(l) adequate veterinary medical care.
He *the commissioner* may adopt in whole or in part, the rules and regulations promulgated by the secretary of the United States department of agriculture pursuant to the provisions of the United States public law 91-579, commonly known as the animal welfare act.

14

Sec. 42⁴ K.S.A. 47-1716 is hereby amended to read as follows: 47-1716. Failure of any person licensed as an animal dealer or as a pet shop operator, or failure of an officer or employee of a registered municipality or a research facility, or failure of any officer or employee operating an animal shelter as a pound, a registered animal shelter to adequately house, feed and water animals in his *such person's, officer's or employee's* possession or custody shall constitute is a class C misdemeanor. Such animals shall be subject to seizure and impoundment, and may be sold or euthanized at the discretion of the commissioner.

failure of any person operating a residential kennel

15

Sec. 43⁴ K.S.A. 47-1718 is hereby amended to read as follows: 47-1718. (a) No animal shall be euthanized by any dog warden, or officer or employee of an animal shelter or officer of a pound by any means, method, agent or device, or in any way, except as follows:

(1) By administration of sodium pentobarbital, or any other barbiturate, or a euthanasia solution marketed under the trade name T-61, by any of the following methods and under the following conditions:

(A) Intravenous or intracardial injection of a lethal solution;
(B) oral ingestion by animals of powdered sodium pentobarbital in capsules mixed with food, with the animal remaining in its individual cage until dead (suited for use with vicious or intractable animals);

(C) intraperitoneal or intracardial injection in animals when location of and injection into the vein is difficult or impossible;

(D) use of an undamaged hypodermic needle of a size suitable for the size and species of animal;

(E) administration to be only by or under the supervision of a licensed veterinarian.

(2) By the use of carbon monoxide gas administered in a

Sec. 12. K.S.A. 47-1714 is hereby amended to read as follows: 47-1714. ~~Nothing in this act shall require any animal dealer, who holds a current federal license issued under public law 91-579, the animal welfare act, to obtain a state animal dealer's license.~~

Nothing in this act shall require the operator of a research facility, who holds a current federal registration issued under public law 91-579, the animal welfare act, to obtain a state certificate of registration.

New Sec. 13. It shall be unlawful to operate a residential kennel in this state on or after January 1, 1987, unless a license for such kennel has been granted by the commissioner. Application for such license shall be in writing on a form provided by the commissioner. The license period shall be for the fiscal year ending on June 30 following its issuance date. The license fee shall be \$15 for each license period or part thereof. The license fee shall accompany the application for the original license or renewal license and shall not be refundable if the license is not issued.

1 tightly-enclosed chamber equipped with:

0642 (A) Internal lighting and viewport providing direct visual
0643 observation of any animal within the chamber;

0644 (B) a gas generation process adequate to achieve a carbon
0645 monoxide gas concentration throughout the chamber of at least
0646 five percent (~~5%~~) 5% within five (~~5~~) minutes after any animal is
0647 placed in the chamber;

0648 (C) a suitable gauge or gas concentration indicator or record-
0649 ing device making possible easy and instantaneous visual deter-
0650 mination of the carbon monoxide concentration in the chamber;

0651 (D) a means of cooling the gas, if from an internal combustion
0652 gasoline engine, to a temperature not exceeding one hundred
0653 fifteen (~~115~~) 115 degrees fahrenheit at point of entry into the
0654 chamber and to one hundred (~~100~~) 100 degrees at any point
0655 within the chamber, as determined by temperature gauges per-
0656 manently installed at point of entry and inside the chamber;

0657 (E) means of removing or filtering out all noxious fumes,
0658 irritating acids and carbon particles from the gas before it enters
0659 the chamber;

0660 (F) if an internal combustion engine is used for gas genera-
0661 tion, a means of substantially deadening the sound and vibration
0662 transmission from the engine to the chamber, by placing them in
0663 separate rooms or soundproof compartments and connecting
0664 them with a flexible tubing or pipe at least twenty-four (~~24~~) 24
0665 inches in length, so that the noise level within the chamber shall
0666 not exceed seventy (~~70~~) 70 dBA;

0667 (G) a means of keeping the animals in the chamber in sepa-
0668 rate compartments, except that young animals from the same
0669 litter may be placed in a single compartment with their female
0670 parent;

0671 (H) an exhaust fan connected by a gas-tight duct to the
0672 outdoors, capable of completely evacuating the gas from the
0673 chamber before it is opened after each use, for the protection of
0674 personnel.

0675 (3) Animals under six months of age, may be euthanized with
0676 chloroform, or with a mixture of chloroform and carbon dioxide
0677 by a means approved in writing by any licensed veterinarian

0678 er inspecting the equipment and method, provided the fol-
0679 lowing requirements are observed:

0680 (A) The animal to be euthanized must be placed in an indi-
0681 vidual cage or compartment in a small chamber or box having a
0682 tight seal, or in a transparent trash bag which can be closed tight
0683 after introduction of the chloroform;

0684 (B) the chloroform, with the dose sufficient to euthanize the
0685 size of animal, shall be placed on a paper towel, piece of gauze or
0686 ball of cotton, and inserted into the chamber or bag in such a
0687 position that the animal shall not be able to come in direct
0688 contact with it;

0689 (C) the chamber or box, if used, must have a viewport suffi-
0690 cient to permit unobstructed observation of the animal until
0691 dead;

0692 (D) the animal must remain in the chamber or bag until rigor
0693 mortis has set in;

0694 (E) the room in which the chloroform is administered must
0695 have forced ventilation to remove all fumes after each use, for the
0696 protection of personnel;

0697 (F) if a mixture of chloroform and carbon dioxide is used, the
0698 carbon dioxide shall be from a cylinder of commercially-
0699 produced gas, with the gas introduced into the chamber imme-
0700 diately after introduction of the chloroform through a valve
0701 which produces only a minimum of noise and permits rapid
0702 distribution within the box, with an air vent at the top of the
0703 chamber to permit exit of displaced air.

0704 (4) By shooting, or use of a captive-bolt pistol, provided all of
0705 the following requirements are met:

0706 (A) The animal is restrained in a humane manner so as to
0707 make possible an accurate shot without the animal becoming
0708 unduly agitated;

0709 (B) a weapon and ammunition of suitable caliber and other
0710 characteristics are used so as to produce death with a single shot
0711 to the brain, with the bullet entering the skull at a point approx-
0712 imately at the point where two lines drawn diagonally from each
0713 eye to the back of the opposite ear cross;

0714 (C) adequate precautions are taken to avoid danger to other

15 animals and to personnel by ricocheting bullets;
 0716 (D) a captive-bolt pistol may be substituted for gun and
 0717 ammunition, to provide instantaneous unconsciousness by pen-
 0718 etration of the skull and brain, to be followed by any suitable
 0719 method of producing death if the animal is not dead as a result of
 0720 such penetration.

0721 (b) This section shall be part of and supplemental to article
 0722 17 of chapter 47 of the Kansas Statutes Annotated.

0723 Sec. ~~6 14~~ K.S.A. ~~47-1705 and 47-1706~~ 47-1701, 47-1702, 47-
 0724 ~~1704, 47-1705, 47-1706, 47-1709, 47-1710, 47-1712, 47-1716 and~~
 0725 ~~47-1718 and K.S.A. 1985 Supp. 12-4516, 21-4619 and 47-830~~ are
 0726 hereby repealed.

16

through 47-1710, 47-1712, 47-1714

17

0727 Sec. ~~7 15~~ This act shall take effect and be in force from and
 0728 after its publication in the statute book.

4/1/86
Attachment #6

WESTPORT ANIMAL CLINIC
DEBRA K. ANDERSON, D. V. M.

~~2030 WESTBANKER DR~~ 5650 SW 29th
TOPEKA, KANSAS 66614
TELEPHONE 272-2520

March 31, 1986

To Whom It May Concern,

I am writing this letter to express my support for Bill 2956 concerning the licensing of individuals in the animal care field.

I support this legislation which requires those working in the animal care fields to reveal any previous convictions for animal cruelty.

I also support the section of the bill which would deny a veterinarian, animal shelter worker or kennel operator who is convicted of cruelty to animals access to any other area of the animal care field. For example, a veterinarian who is found guilty of cruelty to animals in a court of law could not gain a kennel license. This would prevent switching from one area of animal care to another by those with a history of animal abuse.

The statute would also require the revocation of a license if a veterinarian is found guilty of cruelty to animals.

Mandatory revocation of a license would eliminate much of the subjectiveness by Veterinary Board members and might also ease the possibility of a civil lawsuit against individual members of the Board by a disgruntled veterinarian who wishes to retain his license regardless of a conviction of cruelty to animals.

Prevention of cruelty to animals is a popular issue with widespread support. Bill 2956 is a step in the right direction to help strengthen our existing animal cruelty laws.

Sincerely,

Dr. Debra K. Anderson

Dr. Debra K. Anderson

4/1/86
Attachment #17

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P O BOX 58
AUBURN, KANSAS 66402-0058



TOPEKA

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

Kansas City Times, 3-1-86

Ways to Fight Cruelty

Two excellent proposals to strengthen animal cruelty laws are pending before the Kansas House. One would require county or district attorneys to prosecute valid cases of cruelty which are brought to their attention. Too often, law enforcement officials put these cases aside because they don't think the cases are important. The animals continue to suffer, or die, because no one will take the action to help them, even though cruelty and neglect are prohibited under the law.

A second bill would prohibit animal care professionals convicted of cruelty from continuing to work with animals in the same, or another, capacity. It would apply to veterinarians, animal pounds, shelters, research facilities, animal dealers and pet shop operators.

The proposed law requires authorities to revoke state certificates of registration or licenses upon a conviction for this offense unless the employee or officer was automatically dismissed from the business or facility.

It does not apply to farmers, or to private owners of pets.

There have been instances where animal abusers have gone right back to doing what they were doing after they were caught. There's no sense in allowing this to go on, for the welfare of animals, as well as for protection of the public, which has every right to expect that a pet shop or animal dealer will offer healthy, well-cared-for animals, and a veterinarian will provide good care for pets.

State Rep. Ginger Barr, Auburn Republican, has sponsored or pushed for these changes in the Kansas law. They get at a problem which continues to occur because people in charge let it. Those who have caused animals to suffer should lose their privileges of working with the creatures again. And those who are charged with bringing the law to bear must be required to do their duty. The Legislature should strengthen Kansas anti-cruelty laws with these additions to the statutes.

Animal Law in Kansas

Kansas legislators need to strengthen the state's animal abuse law with passage of two important bills this session. Those bills, now before the House for debate, require county and district attorneys to prosecute cases of animal cruelty, and prohibit animal care professionals from working with animals if they have been convicted of abusing them. These are good bills.

They come before lawmakers when dog and horse racing is a prime topic in Kansas. There are excellent humane reasons for lawmakers to vote against pari-mutuel gambling. But no matter how they stand on racing, the legislators should vote to make the needed changes in the Kansas cruelty law. If pari-mutuel horse and dog racing are permitted by the people of Kansas, stronger laws are going to be needed to take care of the many humane problems which are bound to occur. In the case of dogs, many more are raised than qualify for the races and those who don't

make it often meet death unpleasantly.

Some legislators apparently would like to mix the two issues by voting for the two animal cruelty bills if humane groups will look the other way on pari-mutuel gambling. The issues are separate, and because dog racing particularly has been shown elsewhere to foster cruelty, it is appropriate for those who care about animals' treatment to be out in full force on this one.

That doesn't make it any less important that the Legislature also close loopholes which now permit people who have abused animals to continue to do so.

Sen. Fed. & State Affairs
Attachment 7 4/1/86

Kansas City Times, 3-20-86

4/1/86
Attachment #8

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P O BOX 58
AUBURN, KANSAS 66402 0058



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

Topeka Capital Journal
March 31, 1986

Peggy of the Flint Hills

Zula Bennington Greene



There seem to be people who think, because animals cannot speak, that they cannot feel. Others are speaking for them now.

A veterinarian, Dr. Ernie Thomas, owner of the Doktor Pet Center in Overland Park, has been indicted on 11 counts of cruelty to animals. He has been charged with putting sick, live in trash compactors and small sick live animals into his garbage disposal.

Employees of the center who were interviewed all testified to these acts, which have brought a flood of angry responses. Many phoned Humane Societies and expressed outrage. The district attorney said, "The concern from the public has been incredible."

The concern in the House of Representatives also has been notable. Two bills relative to cruelty to animals have been introduced and passed, one with a vote of 104 to 15, the other 104 to 16.

One of the bills sets new standards and punishments for cruelty to animals. The other, introduced by Ginger Barr with 19 co-sponsors, is to prevent a person found guilty of such acts from moving to another place and repeating them.

The bills are now being considered in the Senate, and will, I hope, receive as favorable a response as they did in the House.

THE OVERLAND PARK police were alerted to the situation in the Doktor Center by a call from a Den-

ver Humane Society. It seems that a former employee of the center told a friend in Denver and the friend called the Humane Society.

About the same time an investigation was being done by television station KCTV, which ran reports that brought floods of phone calls from outraged people.

Linda Meredith, Topeka, has gathered clippings about incidents, closings, indictments of Doktor Pet Shops in other states. They include Maryland, Pennsylvania, California, Maine, Illinois, Virginia, Florida and others.

A BOOK, "Black Beauty," written at a time when horses were used in London for cabs and drayage, called attention, in fiction form, to cruelty and abuse of horses. It had a great public influence and was popular reading in schools in this country. I remember reading it in tears.

SINCE THE BLOODLESS Philippine revolution much has been written about people power.

I believe that in any country, or almost any, that if a great majority of the people want a change in government or a change in laws, it can be accomplished. The people have to be united and willing to work, even to sacrifice, even to sit in the road with armored trucks coming.

A democratic form of government is a luxury that is won by participation. It implies an educated population, or at least a concerned population that will try to learn something about the government, have ideas and express them, at the polls, in conversation, in letters to officials.

In this country if a large majority wanted to send money to the contras or to withhold it, it could be done. We could have or not have gun control, abortion, capital punishment. We could pay off the debt or we could flood the nation with more social services.

The trouble is that it is so much easier to go on about our own business and let others worry about the government.

People power is there, but it takes some great movement to crank it up.



Attachment # 9

Helping Hands Humane Society, Inc.

OFFICE AND ANIMAL SHELTER
2625 Rochester Road
Topeka, Kansas 66617
Telephone 233-7325

Testimony by: Miss Audrey B. McCaig, Executive Director, Helping Hands Humane Society

Re: H.B. 2956

Committee: Senate Federal and State Affairs

Date: April 1, 1986

Mr. Chairman and Members of the Committee:

I appreciate the time to appear before you today concerning H.B. 2956, which deals with the abuse of animals.

We as a Humane Society have no problem with H.B. 2956. In fact, we very much want to see it passed because of the incident at Overland Park, Kansas, with Ernest Thomas, D.V.M. who operated the Doktor Pet Store in the Oak Park Mall and who has been charged with eleven (11) counts of Cruelty to Animals. It is alleged that he ran live Gerbils, Guinea Pigs and Birds down the commercial disposal in the back room of the store and also that a returned sick puppy, among other things, was placed in a plastic bag and put in the trash compactor while it was still alive.

This man or anyone connected with handling of animals which includes us as a Humane Society, if convicted of Cruelty to Animals SHOULD lose their license and never again be allowed to work with animals. H.B. 2956 addresses this problem and if you are legitimate and humane in your handling of animals, you have nothing to fear from this law. It would have been so simple for this man to euthanize these animals humanely with an injection, but he didn't see fit to do this. We

Sen. Fed. & State Affairs
Attachment 9 4/1/86

"Paws for Pleasure"

also need H.B. 2820 passed in order to prosecute such individuals.

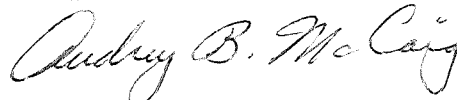
I feel sure that all Veterinarians take some sort of a Hippocratic Oath similar to what Doctors of Medicine take to save lives and in the case of Veterinarians to save lives or humanely euthanize them when necessary and he definitely did not do this.

This gentleman also contacted Doctor Carder, a Veterinarian at Holton, Kansas, concerning kittens that are brought to him by Heart of Jackson Humane Society to board until they can be placed. Doctor Thomas told him he would take any kittens that couldn't be placed and I find this very strange and disturbing, because frankly, that is Pitt Bull country and kittens are extensively used to train Pitt Bulls.

I am also very disturbed that this gentleman is a licensed Veterinarian in the State of Kansas and now he has bought a Kennel at Soldier, Kansas, and feel that the problem will undoubtedly repeat itself.

Thank you for your time in this matter, and I will be happy to answer any questions.

Respectfully submitted,



Miss Audrey B. McCaig,
Executive Director

March 31, 1986

Dear Sirs,

Animals in the wild live and die by the laws of nature dealing with -survival of the fittest -food supply -temperature - health. They are at times harsh laws.

Most animals in cages and pens are not subjected to such harsh laws. Their needs are cared for on a day to day basis. We are dealing today with the few that are not being properly cared for or worse being abused.

Common sense should dictate the care of these animals. It is truly unfortunate that laws of this nature are even necessary. There are those few who do take advantage of the power of control over animal's lives either by inflicting unnecessary pain or simply by neglect of their basic requirements.

House bills 2956, 2820 and their supplements will help to enforce efforts to end cruelty to animals and to control the employment of persons found unsuitable for taking care of animals.

Sincerely,

Darrell E Carder, D.V.M.

Darrell E. Carder, D.V.M.

Senator Ed Reilly, Chairman
Senate State and Federal Affairs Committee
Statehouse - Topeka, Ks.



Topeka Kennel Club, Inc.

Topeka, Kansas

April 1, 1986

Member of American Kennel Club, Inc.

4/1/86
Attachment #10

To; Chairman and members of the Committee

Re: House Bill No. 2820 *and 2956*

From: Topeka Kennel Club, Inc.
Eileen McClintock, President
1731 N W Menoken Rd.
Topeka, Kansas 66618

The members and Board of Directors of the Topeka Kennel Club, Inc. wish to go on record as supporting ~~this~~ bill. The Club was organized for the advance ment of pure-bred dogs and, therefore, has an interest in the general welfare of all animals. We sincerely hope this bill will meet with your approval.

Eileen Mc Clintock



Heart of Jackson Humane Society Inc.

BOX 106 - HOYT, KANSAS 66440 PHONE (913) 935-2353

4/1/86
Attachment #11

March 31, 1986

Senator Ed Reilly, Chairman
Senate State and Federal Affairs Committee
Statehouse - Topeka

RE: HB 2820 Forcing County and District Attorneys to
file complaints in valid animal cruelty cases.

Chairman Reilly and Members:

Our humane society is in full support of HB 2820 which amends KSA 21-4311 relating to charges of a crime of cruelty to animals, and upon filing of such a complaint with law enforcement officials, that the county attorney file charges forthwith, upon determination that the complaint is valid.

I'll state briefly as possible an experience our humane society had in this instance.

In January of 1984, a bitter cold winter, our humane society received a complaint that 50 to 70 cattle in Jackson County were starving on approximately 160 grubbed acres, and the ponds were frozen. The cattle were owned by an absentee owner living in Topeka.

Neighbors complained to the sheriff and took pictures of the dead and frozen cattle. We could get no charges filed against the owner by the then county attorney. The sheriff and the county attorney were longtime friends of the cattle owner, who was a retired attorney living in Topeka.

I will not go into the details, but our humane society has a dated running record documenting efforts made to correct this situation from January 7, 1984, when we received the complaint, until the end of March, when the weather moderated and the pasture began to green out a bit.

For three months it was an off and on again situation of having to contact the sheriff and owner to get feed to those cattle regularly. Approximately 50 head starved or froze to death.

We feel this bill would strengthen enforcement efforts in animal abuse cases and give direction to county attorneys, and merits your support.

Sincerely,

Frances Tutt

Frances Tutt
President

Sen. Fed. & State Affairs
Attachment 11 4/1/86



Heart of Jackson Humane Society Inc.

BOX 106 - HOYT, KANSAS 66440 PHONE (913) 935-2353

March 31, 1986

Senator Ed Reilly, Chairman
Senate State and Federal Affairs Committee
Statehouse - Topeka

Re: HB 2956 Concerning animals; relating to licensure or
registration of certain persons and facilities
dealing with animals.

Chairman Reilly and Members:

Our humane society is in full support of HB 2956. We feel this bill would help to insure that persons convicted of cruelty to animals could not be employed in certain animal facilities. Penned and caged animals depend upon and are at the mercy of human beings for their care.

It is a source of concern and worry to many of us in Jackson County since the kennel at Soldier, KS was sold to a veterinarian who has been charged with eleven counts of cruelty to animals because of his activities at his Docktor Pet Center in Overland Park, KS. His case has been postponed three times for docket calendar, since he was charged in November 1985, and is pending.

In February of this year, Dr. Darrell Carder, Hilltop Animal Clinic in Holton, told me that Dr. Ernest Tomas, owner of the Soldier kennel had stopped by his clinic and volunteered to take all humane society kittens that we could not place. (We board our stray animals at Hilltop). Dr. Tomas said he wanted them for his pet shop in Overland Park. This seemed to us a bizarre request since we find it difficult to place the many cats and kittens we take in.

Small kittens are a popular attraction in pet shops. With no investment in these small creatures, when they have served their purpose, they could be, at no cost to him, subject while alive to garbage compactor disposal.

Because of the Overland Park incident, we've become aware that Kansas does need legislation to further protect helpless animals.

Also, we feel an amendment for licensing animal dealers would be beneficial to help regulate the "puppy mill" business in Kansas and bring additional revenue to the State. Through proper legislation, the "puppy mill" image of Kansas can be eliminated in time.

We urge that you act favorably on this bill.

Sincerely,

Frances Tutt

Frances Tutt
President