

Approved \_\_\_\_\_

Date

4/9/86

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

10:45 a.m./~~p.m.~~ on April 8, 1986 in room 254-E of the Capitol.

All members were present except:

Senator Daniels and Senator Vidricksen were excused.

Committee staff present:

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

Conferees appearing before the committee:

HB2821 - time limits for enforcement of open meetings laws

The Chairman stated that an amendment concerning HB2821 by staff has been passed out for the Committee. (Attachment #1) Senator Morris complimented staff on preparing the amendment.

Dr. Walker moved to strike out the word "formally" in the amendment and to accept it in that form. 2d by Senator Anderson. Motion carried.

Senator Anderson moved that the language be amended into the bill and that any clean-up changes be made by staff. 2d by Senator Strick. Motion carried.

Senator Martin moved that the language be amended to 15 days. 2d by Senator Walker. Motion carried.

Senator Martin moved that HB2821 be reported favorably as amended. 2d by Senator Strick. Motion carried.

HB2956 - persons convicted of animal cruelty not eligible for certain licenses

The Subcommittee for HB2956 was prepared to make a report. Senator Morris, Chairman, gave the report. Other members were: Senator Martin and Senator Hoferer. The report is a balloon of HB2956, which shows the proposed changes. (Attachment #2)

Senator Martin moved for the adoption of the amendments that were made by the Subcommittee for HB2956. 2d by Senator Hoferer. Motion was adopted.

Senator Martin moved that HB2956 be recommended favorably for passage as amended. 2d by Senator Hoferer. The motion included the adoption of the Subcommittee Report. Motion carried.

The Chairman thanked them for their help and close scrutiny.

SB724 - concerning prohibition of clove cigarettes

The Chairman announced that he had a hand-out for the Committee from the Mayo Clinic Health Letter of April, 1986. (Attachment #3) It states: "Contrary to what you might have heard, clove cigarettes can threaten your health. "

The Chairman told the Committee that Mr. Gary Abram, Executive Director of Specialty Tobacco Council, Winston-Salem, N.C., will be flying in tomorrow. It is the Chairman's intention to have Mr. Abram appear before the Committee.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 10:45 a.m./~~p.m.~~ on April 8, 1986

HB2813 - prohibiting certain practices in sale of alcoholic beverages

The Chairman asked Russell Mills to brief the Committee on the HB2813. The balloon of the bill with proposed amendments was distributed. (Attachment #4)

The balloon is some new amendments in addition to the provisions which were put in by the House. The Chairman said he had asked people in the business for input, which in turn was turned over to staff. Staff said he attempted to summarize the answers the Chairman had received.

The Chairman thanked staff for the presentation.

Senator Strick said he would like to amend Section 5, to include: "golf courses, marinas, race tracks, special events and sporting events as approved by the director."

Members of the Committee voiced the opinion that there are a lot of items in these amendments which need more consideration.

Senator Martin expressed his feeling that the Chairman had done a very good job yesterday on the floor of the Senate.

There was some other Committee discussion.

The meeting was adjourned.

4/8/86  
Attachment #1

**75-4317a. Meeting defined.** As used in this act, "meeting" means any prearranged gathering or assembly by a majority of a quorum of the membership of a body or agency subject to this act for the purpose of discussing the business or affairs of the body or agency:

but does not include gatherings during travel, or social or casual gatherings, at which no official business is ~~formally~~ transacted and no binding action is taken

4/8/86

Subcommittee Report

Attachment #2

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1986

### 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

024 AN ACT concerning animals; relating to ~~qualifications for~~ licens-  
025 sure or registration of certain persons and facilities dealing  
026 with animals; amending K.S.A. 47-1705 and 47-1706 47-1701,  
027 47-1702, 47-1704, 47-1705, 47-1706, 47-1709, 47-1710, 47-  
028 1712, 47-1716 and 47-1718 and K.S.A. 1985 Supp. 12-4516,  
029 21-4619 and 47-830 and repealing the existing sections ~~47-1714,~~  
; also repealing K.S.A. 47-1707 and 47-1708

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

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

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

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

045 (1) Vehicular homicide, as defined by K.S.A. 21-3405 and  
046 amendments thereto;

047 (2) a violation of K.S.A. 8-1567 and amendments thereto;

048 (3) driving while the privilege to operate a motor vehicle on

0049 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;

; or ¶(9) cruelty to animals, as defined by K.S.A. 21-4310 and  
amendments thereto

00 (2) that the circumstances and behavior of the petitioner  
0087 warrant the expungement; and

0088 (3) that the expungement is consistent with the public wel-  
0089 fare.

0090 (e) When the court has ordered a conviction expunged, the  
0091 order of expungement shall state the information required to be  
0092 contained in the petition. The clerk of the court shall send a  
0093 certified copy of the order of expungement to the federal bureau  
0094 of investigation, the Kansas bureau of investigation, the secretary  
0095 of corrections and any other criminal justice agency which may  
0096 have a record of the conviction. After the order of expungement  
0097 is entered, the petitioner shall be treated as not having been  
0098 convicted of the crime, except that:

0099 (1) Upon conviction for any subsequent crime, the conviction  
0100 that was expunged may be considered as a prior conviction in  
0101 determining the sentence to be imposed;

0102 (2) the petitioner shall disclose that the conviction occurred  
0103 if asked about previous convictions (A) in any application for  
0104 employment as a detective with a private detective agency, as  
0105 defined by K.S.A. 75-7b01 and amendments thereto; as security  
0106 personnel with a private patrol operator, as defined by K.S.A.  
0107 75-7b01 and amendments thereto; with a criminal justice agency,  
0108 as defined by K.S.A. 22-4701 and amendments thereto; or with  
0109 an institution, as defined in K.S.A. 76-12a01 and amendments  
0110 thereto, of the department of social and rehabilitation services;  
0111 ~~or~~ (B) *in any application for licensure as or employment with a*  
0112 *veterinarian, pound, animal shelter, research facility, animal*  
0113 *dealer or pet shop operator; or (C) in any application for admis-*  
0114 *sion, or for an order of reinstatement, to the practice of law in this*  
0115 *state;*

0116 (3) the court, in the order of expungement, may specify other  
0117 circumstances under which the conviction is to be disclosed; and

0118 (4) the conviction may be disclosed in a subsequent prose-  
0119 cution for an offense which requires as an element of such  
0120 offense a prior conviction of the type expunged.

0121 (f) Whenever a person is convicted of an ordinance violation,  
0122 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

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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  
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 c  
0204 erage!

; or ¶(9) cruelty to animals, as defined by K.S.A. 21-4310 and  
amendments thereto

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, th  
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:

0235 of corrections and any other criminal justice agency which may  
 0236 have a record of the conviction. After the order of expungement  
 0237 is entered, the petitioner shall be treated as not having been  
 0238 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 or 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~~

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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)

0308 an application for admission, or for an order of reinstatement, to  
0309 the practice of law in this state by the person whose record has  
0310 been expunged.

0311 Sec. 3. K.S.A. 1985 Supp. 47-830 is hereby amended to read  
0312 as follows: 47-830. (a) Upon written complaint sworn to by any  
0313 person, the board may, after a *notice and an opportunity for*  
0314 hearing conducted in accordance with the provisions of the  
0315 Kansas administrative procedure act, and by a concurrence of  
0316 four members, revoke or suspend for a certain time the license  
0317 of, or otherwise discipline, any licensed veterinarian for any of  
0318 the following reasons:

0319 ~~(a)~~ (1) The employment of fraud, misrepresentation or de-  
0320 ception in obtaining a license;

0321 ~~(b)~~ (2) an adjudication of incapacity by a court of competent  
0322 jurisdiction;

0323 ~~(c)~~ (3) habitual intemperance in the use of intoxicating li-  
0324 quors, or habitual addiction to the use of morphine, cocaine, or  
0325 other habit forming drugs; or conviction of a violation of any  
0326 federal or state law relating to narcotic drugs;

0327 ~~(d)~~ (4) the publication or use of any untruthful or improper  
0328 statement, or representation, with a view of deceiving the public,  
0329 or any client or customer in connection with the practice of  
0330 veterinary medicine;

0331 ~~(e)~~ (5) conviction of a felony;

0332 ~~(f)~~ (6) gross malpractice, including failure to furnish to the  
0333 board, upon written application by it, any report or information  
0334 relating thereto;

0335 ~~(g)~~ (7) employing any person practicing veterinary medicine  
0336 unlawfully;

0337 ~~(h)~~ (8) fraud or dishonest conduct in applying or reporting  
0338 diagnostic biological tests or in issuing health certificates;

0339 ~~(i)~~ (9) failure to keep veterinary premises and equipment in a  
0340 clean and sanitary condition;

0341 ~~(j)~~ (10) failure to report as required by law, or making false  
0342 report of any contagious or infectious disease;

0343 ~~(k)~~ (11) dishonesty or gross negligence in the inspection of  
0344 foodstuffs;

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-~~ adjudicated or  
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

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(c) No person known by a veterinarian to have been adjudicated or convicted of committing any act involving cruelty to or inhumane treatment of an animal shall be an employee of such veterinarian. The board, after notice and an opportunity for hearing in accordance with the Kansas administrative procedures act, shall impose on any licensee violating this subsection a fine of \$2,000 unless such licensee promptly dismisses the employee

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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

0382 out, conducted; or attempted;

0383 (d) "Animal" means any live dog, cat, rabbit, rodent, nonhu-  
0384 man primate, bird or other warm-blooded vertebrate; but shall  
0385 exclude *not include* horses, cattle, sheep, goats, swine and do-  
0386 mestic fowl;

0387 (e) "Exotic pet animal" means any fish, snake or other cold-  
0388 blooded animal;

0389 ~~(f) "Pound"~~ "Animal shelter" means a facility: (1) Operated  
0390 by ~~a~~ the state, or any political subdivision thereof, for the pur-  
0391 pose of impounding or harboring any seized stray, homeless or  
0392 abandoned animal; ~~or a facility~~ (2) operated for such a purpose  
0393 under contract with any municipality or incorporated society for  
0394 the prevention of cruelty to animals; or by ~~other~~ another person  
0395 or entity under contract with such municipality;

0396 ~~(g)~~ "Animal shelter" means a facility which is or (3) used or  
0397 designed for use to house or contain any animal; ~~and which is~~  
0398 and owned, operated or maintained by a duly incorporated  
0399 humane society, animal welfare society, society for the preven-  
0400 tion of cruelty to animals; or other nonprofit corporate organiza-  
0401 tion devoted to the welfare, protection and humane treatment of  
0402 animals;

0403 ~~(h)~~ (g) "Primary enclosure" means any structure used or  
0404 designed for use to restrict any animal to a limited amount of  
0405 space, such as a room, pen, cage, compartment or hutch;

0406 ~~(i)~~ (h) "Housing facility" means any room, building; or area  
0407 used to contain a primary enclosure or enclosures;

0408 ~~(j)~~ (i) "Sanitize" means to make physically clean and to re-  
0409 move and destroy, to a practical minimum, agents injurious to  
0410 health;

0411 ~~(k)~~ (j) "Euthanasia" means the humane destruction of an  
0412 animal, which may be accomplished by any of those methods  
0413 provided for in K.S.A. 47-1718; and amendments thereto.

0414 ~~(l)~~ (k) "Ambient temperature" means the temperature sur-  
0415 rounding the animal;

0416 ~~(m)~~ (l) "Adequate feeding" means supplying at suitable in-  
0417 tervals (not to exceed 24 hours) of a quantity of wholesome  
0418 foodstuff, suitable for the animal species and age, and sufficient

0419 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 (q) (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~~  
0453 ~~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,

~~premises for a period of ninety (90) 90 days or longer.~~

0457 Sec. 5. K.S.A. 47-1702 is hereby amended to read as follows:  
 0458 47-1702. (a) It shall be unlawful for any person other than one  
 0459 licensed under public law 91-579 to act as or be an animal dealer  
 0460 after January 1, 1973; *to act as or be an animal dealer in this*  
 0461 *state unless a license to be an animal dealer is granted to such*  
 0462 *person by the commissioner. Application for such license shall*  
 0463 *be made in writing on a form provided by the commissioner. The*  
 0464 *license period shall be for the current fiscal year ending on June*  
 0465 *30; following issuance date. The license fee shall be one hun-*  
 0466 *dred dollars (\$100) \$100 for each license period, or part thereof.*  
 0467 *The license fee shall accompany the application for the original*  
 0468 *license or the renewal license and shall not be refundable in the*  
 0469 *event that a license is not granted.*

0470 (b) The commissioner shall remit all moneys received by or  
 0471 for the commissioner under this section or K.S.A. 47-1703 *and*  
 0472 *amendments thereto* to the state treasurer at least monthly. Upon  
 0473 receipt of each such remittance the state treasurer shall deposit  
 0474 the entire amount thereof in the state treasury and such amount  
 0475 shall be credited to the animal health department fee fund.

0476 Sec. 6. K.S.A. 47-1704 is hereby amended to read as follows:  
 0477 47-1704. It shall be unlawful for any city of the first class, or the  
 0478 officials thereof to operate a pound, or any corporate entity to  
 0479 operate an animal shelter as a pound after January 1, 1973, unless  
 0480 a certificate of registration for such pound or animal shelter shall  
 0481 *have has* been granted by the commissioner. Application for  
 0482 such certificate shall be made on a form provided by the com-  
 0483 missioner. A fee shall not be required for such application or  
 0484 certificate. Certificates of registration shall be valid for a period  
 0485 of five (5) years from July 1 of current fiscal year in which issued,  
 0486 unless earlier revoked. Such certificates may be renewed for a  
 0487 like period, upon application in the manner provided.

0488 Sec. 47. K.S.A. 47-1705 is hereby amended to read as fol-  
 0489 lows: 47-1705. (a) A certificate of registration may be denied for  
 0490 any pound, animal shelter or research facility. If granted, such  
 0491 certificate may be suspended or revoked by the commissioner.  
 0492 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 two but less than six litters of cats or dogs, or both, 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.



0493 a hearing notice and an opportunity for hearing in accordance  
0494 with the Kansas administrative procedures act, and after a  
0495 determination that the housing facility or the primary enclosure  
0496 is inadequate, or that the feeding, watering, sanitizing, and  
0497 housing practices at the pound, animal shelter or research facil-  
0498 ity, are not consistent with this act, or the rules and regulations  
0499 adopted hereunder.

2956a2

0500 (b) The commissioner, after notice and an opportunity for  
0501 hearing in accordance with the Kansas administrative proce-  
0502 dures act, shall refuse to issue or renew a certificate of regis-  
0503 tration for any pound, animal shelter or research facility, and  
0504 shall revoke such a certificate, if ~~any officer or employee thereof~~  
0505 has been adjudicated or convicted of any act involving cruelty  
0506 to or inhumane treatment of an animal ~~unless such officer or~~  
0507 ~~employee is promptly dismissed~~ upon receipt of knowledge of  
0508 the adjudication or conviction.

the person operating the shelter or facility

(c) No person known by the operator of an animal shelter or research facility to have been adjudicated or convicted of committing any act involving cruelty to or inhumane treatment of an animal shall be an officer or employee of such shelter or facility. The commissioner, after notice and an opportunity for hearing in accordance with the Kansas administrative procedures act, shall impose on the operator of any animal shelter or research facility violating this subsection a fine of \$2,000 unless such operator promptly dismisses the officer or employee

0509 Sec. 5 8. K.S.A. 47-1706 is hereby amended to read as fol-  
0510 lows: 47-1706. (a) The commissioner, after notice and an op-  
0511 portunity for hearing in accordance with the Kansas adminis-  
0512 trative procedures act, may refuse to issue or renew an animal  
0513 dealer's license ~~or a pet shop operator's license; or he may~~  
0514 ~~suspend or revoke an animal dealer's license or a pet shop~~  
0515 ~~operator's license for any one or more of the following reasons:~~ such a

, a residential kennel license

- 0516 (a)(1) Material misstatement in the application for the origi-  
0517 nal license; or in the application for any renewal of a license;
- 0518 (a)(2) willful disregard of any provision of this act or any rule  
0519 and regulation adopted hereunder, or any willful aiding or abet-  
0520 ting of another in the violation of any provision of this act or of  
0521 any rule and regulation adopted hereunder;
- 0522 (a)(3) permitting any license issued hereunder to be used by  
0523 an unlicensed person, or transferred to unlicensed premises;
- 0524 (a)(4) the conviction of any crime, an essential element of  
0525 which is misstatement, fraud or dishonesty, or relating to the  
0526 theft of or cruelty to animals;
- 0527 (a)(5) substantial misrepresentation;
- 0528 (a)(6) misrepresentation or false promise, made through ad-  
0529 vertising, salesmen, agents or otherwise, in connection with the

530 operation of business of animal dealer;

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

532 (h) (8) the housing facility or the primary enclosure is inade-  
533 quate; or

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

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

547 Sec. 9. K.S.A. 47-1709 is hereby amended to read as follows:  
548 47-1709. The commissioner or his the commissioner's authorized  
549 representative shall make regular inspections of the premises of  
550 each licensed animal dealer, registered pound, animal shelter,  
551 licensed pet shop and each research facility. The commissioner  
552 is hereby authorized to designate and appoint the city health  
553 officer of any city or in the absence of a city health officer, the  
554 county health officer of the county, as his the commissioner's  
555 authorized representative for the purpose of making inspections  
556 within such counties and cities. Records of these inspections  
557 shall be maintained in the office of the Kansas animal health  
558 department.

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

, residential kennel license

2956a3

animal dealer, pet shop operator or operator of the residential  
kennel license

(a)

(c) No person known by an animal dealer, pet shop operator or holder of a residential kennel license to have been adjudicated or convicted of committing any act involving cruelty to or inhumane treatment of an animal shall be an officer or employee of such dealer or operator. The commissioner, after notice and an opportunity for hearing in accordance with the Kansas administrative procedures act, shall impose on a dealer or operator violating this subsection a fine of \$2,000 unless such dealer or operator promptly dismisses the officer or employee

(b)

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.

(c) Records of inspections pursuant to this section

0567 The board of directors of any incorporated humane society  
0568 operating an animal shelter as a pound, under contract with a  
0569 municipality, shall determine the method of disposition of any  
0570 animal released from its animal shelter. Any proceeds derived  
0571 from such sale or disposition shall be paid directly to the trea-  
0572 surer of the humane society and no part of such proceeds shall  
0573 accrue to any individual.

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

0604 (m) (l) adequate veterinary medical care.  
 0605 The commissioner may adopt in whole or in part, the rules  
 0606 and regulations promulgated by the secretary of the United  
 0607 States department of agriculture pursuant to the provisions of the  
 0608 United States public law 91-579, commonly known as the animal  
 0609 welfare act.

14

0610 Sec. 42<sup>7</sup> K.S.A. 47-1716 is hereby amended to read as fol-  
 0611 lows: 47-1716. Failure of any person licensed as an animal dealer  
 0612 or as a pet shop operator, or failure of an officer or employee of a  
 0613 registered municipality or a research facility, or failure of any  
 0614 officer or employee operating an animal shelter as a pound, a  
 0615 registered animal shelter to adequately house, feed and water  
 0616 animals in his such person's, officer's or employee's possession  
 0617 or custody shall constitute is a class C misdemeanor. Such  
 0618 animals shall be subject to seizure and impoundment, and may  
 0619 be sold or euthanized at the discretion of the commissioner.

failure of any  
 person operating  
 a residential  
 kennel

15

0620 Sec. 49<sup>7</sup> K.S.A. 47-1718 is hereby amended to read as fol-  
 0621 lows: 47-1718. (a) No animal shall be euthanized by any dog  
 0622 warden, or officer or employee of an animal shelter or officer of a  
 0623 pound by any means, method, agent or device, or in any way,  
 0624 except as follows:

0625 (1) By administration of sodium pentobarbital, or any other  
 0626 barbiturate, or a euthanasia solution marketed under the trade  
 0627 name T-61, by any of the following methods and under the  
 0628 following conditions:

0629 (A) Intravenous or intracardial injection of a lethal solution;  
 0630 (B) oral ingestion by animals of powdered sodium pentobar-  
 0631 bital in capsules mixed with food, with the animal remaining in  
 0632 its individual cage until dead (suited for use with vicious or  
 0633 intractable animals);

0634 (C) intraperitoneal or intracardial injection in animals when  
 0635 location of and injection into the vein is difficult or impossible;

0636 (D) use of an undamaged hypodermic needle of a size suit-  
 0637 able for the size and species of animal;

0638 (E) administration to be only by or under the supervision of a  
 0639 licensed veterinarian.

0640 (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. (a) 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.

(b) This section shall be part of and supplemental to K.S.A. 47-1701 through 47-1717, and amendments thereto.

0641 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 after 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

0715 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-  
16

0724 1704; ~~47-1705, 47-1706, 47-1709, 47-1710, 47-1712, 47-1716 and~~ through 47-1710, 47-1712, 47-1714  
0725 47-1718 and K.S.A. 1985 Supp. 12-4516, 21-4619 and 47-830 are

0726 hereby repealed. 17

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

4/8/86

Attachment #3

attractive to the opposite sex.

Sorry, dear readers. . . it is not necessarily so.

These products are, at best, only temporarily helpful in controlling breath odors and probably are less effective than rinsing your mouth with water, brushing and flossing your teeth or just eating a meal.

After sleeping, almost all of us have bad breath. Saliva does not flow while we sleep; it tends to stagnate. Food debris and skin cells within the mouth combine to create an unpleasant odor. Use of mouthwash the night before will not prevent "morning mouth."

The vast majority of daytime breath odors are caused by foods or by disorders of the teeth and mouth. Common causes of temporary bad breath include such well-known culprits as raw onions, garlic, cigarettes and alcohol. Persistent bad breath most often results from dental plaque or periodontal (gum) disease.

Temporary bad breath easily can be eliminated by proper oral hygiene, including brushing your teeth (and your tongue), daily use of dental floss and regular checkups at your dentist's office.

Persistent bad breath is more difficult to overcome. Some specialists believe gum disease accounts for 90 percent of all ongoing breath odor, but there can be medical causes, too. If you have a persistent problem with breath odor, see your dentist first and then, if necessary, see your physician.

Sometimes bad breath is only imaginary. Patients who are anxious or depressed occasionally report this symptom; the dentist or physician cannot detect any unpleasant odor.

Medical causes of bad breath are rare, but the problem can be due to conditions ranging from ailments in the upper and lower respiratory tracts to neurologic problems to gastrointestinal disorders, medications you are taking or even cancer of the mouth, throat or breathing passages.

### **Our recommendation**

For occasional, temporary bad breath caused by "morning mouth" or food, oral hygiene is the answer. If you are away from your medicine cabinet, rinse your mouth with water or eat a meal.

If all else fails, a breath mint may offer limited relief in much the same way sugarless candy or gum can.

If your bad breath persists, see your dentist or physician.

### **A dangerous fad**

## **Contrary to what you might have heard, clove cigarettes can threaten your health**

Kreteks, or clove cigarettes, are a new fad in this country: 12 million of them were sold in 1980 . . . and 150 million in 1984. They are especially popular among teenagers and young adults.

Kreteks have an exotic aroma and are sold as herbal, low-tar alternatives to conventional cigarettes. But, in fact, they can be a serious threat to your health.

The Indonesian tobacco in clove cigarettes can have nearly twice the tar and nicotine of moderate tar-containing American cigarettes. The U.S. Centers for Disease Control issued a report in 1985 that linked two deaths and nearly a dozen cases of serious illness to the smoking of clove cigarettes.

Symptoms include coughing up blood, shortness of breath and severe — potentially fatal — lung infections. As it's inhaled, clove smoke might anesthetize the throat. There is danger that people who think conventional cigarettes are too harsh will be deceived into thinking that cloves are mild. And without the warning signal of a scratchy throat, clove smokers can deeply inhale toxins from these cigarettes.

Eugenol, the primary nontobacco component in the cigarettes, is on the list of ingredients generally recognized as safe by the Food and Drug Administration. It also is approved for some over-the-counter toothache remedies. But the FDA based its ruling on the oral consumption of eugenol in its *unburned* state. No data exists to document the safety of inhaling eugenol smoke.



HOUSE BILL No. 2813

By Committee on Federal and State Affairs

1-31

April 1, 1986

gw  
4/8/86  
Attachment #4

Proposed Amendments to H.B. 2813

0018 AN ACT concerning alcoholic beverages; prohibiting certain  
0019 sales practices with respect thereto and providing penalties  
0020 for violations; amending K.S.A. 1985 Supp. 41-2640 and 41-  
0021 2722 and repealing the existing sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 1985 Supp. 41-2640 is hereby amended to  
0024 read as follows: 41-2640. (a) No club licensed pursuant to article  
0025 26 of chapter 41 of the Kansas Statutes Annotated, or employee or  
0026 agent of such a club, shall:

0027 (1) Offer or serve any free ~~drink~~ cereal malt beverage or  
0028 alcoholic liquor in any form to any person;

0029 (2) *offer or serve to any person a drink at a price that is less*  
0030 *than the acquisition cost of the drink to the licensee;*

0031 ~~(3) sell or serve more than two drinks or a pitcher or similar~~  
0032 ~~quantity of drinks to one person at one time or while there are~~  
0033 ~~unconsumed drinks in the person's possession;~~

0034 ~~(3) (4) (3)~~ sell, offer to sell or serve to any person an unlimited  
0035 number of drinks during any set period of time for a fixed price,  
0036 except at private functions not open to the general club mem-  
0037 bership;

0038 (4) ~~(5) (4)~~ sell, offer to sell or serve any drink to any person on  
0039 any one day at any time at a price less than that charged all other  
0040 purchasers of drinks on that day during that week;

0041 ~~(5) (6) (5)~~ increase the volume of alcoholic liquor contained  
0042 in a drink or the size of a drink of cereal malt beverage without  
0043 increasing proportionately the price regularly charged for the  
0044 drink on that day;

0045 ~~(6) (7) (6)~~ encourage or permit, on the licensed premises, any  
0046 game or contest which involves drinking alcoholic liquor or

Entire law is unenforceable and should be repealed; take the restrictions off

No definition of "cost"

Support this change

sell, offer to sell, or serve any drink to any person at any time at a price less than that charged all other purchasers of drinks on that day

Do not approve, original concept was to prevent "Happy Hours"

knowingly

0047 cereal malt beverage or the awarding of drinks as prizes; or  
0048 ~~(7) (8) (7)~~ advertise or promote in any way, whether on or off  
0049 the licensed premises, any of the practices prohibited under  
0050 subsections (a)(1) through ~~(6) (7) (6)~~.

0051 (b) Nothing in subsection (a) shall be construed to prohibit a  
0052 club from:

0053 (1) Offering free food or entertainment at any time; or

0054 ~~(2) including a drink as part of a meal package; or~~

0055 ~~(3) (2) selling or delivering wine by the bottle or carafe.~~

0056 (c) Violation of any provision of this section is a misdemeanor  
0057 punishable as provided by K.S.A. 41-2633 and amendments  
0058 thereto.

0059 (d) Violation of any provision of this section shall be grounds  
0060 for suspension or revocation of the club's license as provided by  
0061 K.S.A. 41-2609 and amendments thereto and for imposition of a  
0062 civil fine as provided by K.S.A. 41-2633a and amendments  
0063 thereto.

0064 (e) *Every licensed private club shall display, in a prominent*  
0065 *place where it can be seen by members and guests, a price list*  
0066 *showing the club's current prices per drink for all drinks.*

0067 (f) As used in this section:

0068 (1) "Drink" means an individual serving of any beverage  
0069 containing alcoholic liquor or an individual serving of cereal  
0070 malt beverage.

0071 (2) "Week" means any seven-day period beginning on Mon-  
0072 day and ending on Sunday.

0073 ~~(h) (g)~~ This section shall be part of and supplemental to K.S.A.  
0074 41-2601 through 41-2639, and amendments thereto.

0075 Sec. 2. K.S.A. 1985 Supp. 41-2722 is hereby amended to read  
0076 as follows: 41-2722. (a) No retailer, or employee or agent of a  
0077 retailer, licensed to sell cereal malt beverage for consumption on  
0078 the licensed premises shall:

0079 (1) Offer or serve any free ~~drink~~ cereal malt beverage to any  
0080 person;

0081 (2) offer or serve to any person a drink at a price that is less  
0082 than the acquisition cost of the drink to the licensee;

0083 ~~(3) sell or serve more than two drinks or a pitcher or similar~~

————— No definition of meal ; want meal package left in

————— Every licensee shall keep, on hand at all times, a list of prices showing the current prices per drink for all drinks.

————— Impossible task , bothersome and distasteful :

————— delete

0084 *quantity of drinks to one person at one time or while there are*  
0085 *unconsumed drinks in the person's possession;*

0086 ~~(3)(4)~~(3) sell, offer to sell or serve to any person an unlimited  
0087 number of drinks during any set period of time for a fixed price,  
0088 except at private functions not open to the general public;

0089 ~~(4)(5)~~(4) sell, offer to sell or serve any drink to any person ~~on~~  
0090 ~~any one day at any time~~ at a price less than that charged the  
0091 general public ~~on that day during that week~~, except at private  
0092 functions not open to the general public;

0093 ~~(5)(6)~~(5) increase the size of a drink of cereal malt beverage  
0094 without increasing proportionately the price regularly charged  
0095 for the drink on that day;

0096 ~~(6)(7)~~(6) encourage or permit, on the licensed premises, any  
0097 game or contest which involves drinking cereal malt beverage or  
0098 the awarding of drinks as prizes; or

0099 ~~(7)(8)~~(7) advertise or promote in any way, whether on or off  
0100 the licensed premises, any of the practices prohibited under  
0101 subsections (a)(1) through ~~(6)~~ ~~(7)~~ (6).

0102 (b) Nothing in subsection (a) shall be construed to prohibit a  
0103 retailer from:

0104 ~~(1)~~ offering free food or entertainment at any time; ~~or.~~

0105 ~~(2)~~ including a drink as part of a meal package.

0106 (c) Violation of any provisions of this section is a misde-  
0107 meanor punishable as provided by K.S.A. 41-2711 and amend-  
0108 ments thereto.

0109 (d) Violation of any provision of this act shall be grounds for  
0110 suspension or revocation of the retailer's license as provided by  
0111 K.S.A. 41-2708 and amendments thereto.

0112 (e) *Every licensee subject to the provisions of this section*  
0113 *shall display, in a prominent place where it can be seen by*  
0114 *patrons, a price list showing the licensee's current prices for all*  
0115 *cereal malt beverages.*

0116 (f) As used in this section;

0117 (1) "Drink" means an individual serving of cereal malt bev-  
0118 erage.

0119 (2) "Week" means any seven-day period beginning on Mon-  
0120 day and ending on Sunday.

sell, offer to sell, or serve any drink to any person at any time at a price less than that charged all other purchasers of drinks on that day

knowingly

Every licensee shall keep, on hand at all times, a list of prices showing the current prices for all cereal malt beverages

delete

0121 (f)(g) This section shall be part of and supplemental to K.S.A.  
0122 41-2701 through 41-2721, and amendments thereto.

0123 Sec. 3. K.S.A. 1985 Supp. 41-2640 and ~~41-2722~~ 41-2722 are  
0124 hereby repealed.

0125 Sec. 4. This act shall take effect and be in force from and  
0126 after its publication in the statute book.

#### Other Suggestions

- I. S.B. 409 concerns farm wineries and amends current law to:
  1. modify the current residency requirement for farm winery applicants (four years in state, two years in county) to a requirement that the applicant must have been a Kansas resident for two years at some time preceding the date of application;
  2. clarify that domestic wine containers need not carry a separate label indicating that the wine is a Kansas product;
  3. require that only a majority of stockholders of a farm winery corporation must meet the same qualifications as the licensee (under current law, all stockholders must meet the same qualifications as the licensee);
  4. provide for a uniform gallonage tax on all table wines at \$.30 per gallon by deleting the current tax of \$.15 per gallon on domestic table wine; and
  5. reduce the age limit from 21 to 18 years for employment at a farm winery.
  
- II. Allow the sale of cereal malt beverage on Sundays after 1:00 p.m. in all licensed outlets except liquor stores (1985 S.B. 46).
  
- III. Permit a Class B club located on a train to establish rules whereby bona fide ticketed guests on the train may become temporary members of the club (1983 H.B. 2504).
  
- IV. Allow the Board of Regents to designate one nonclassroom building on each campus, except at KTI, in which alcoholic liquor could legally be consumed (Senator Winter).
  
- V. Permit the sale of cereal malt beverage on Sundays at conventions and concerts (1985 S.B. 253).