

Approved 3/14/88  
Date

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./p.m. on February 25, 1988 in room 254-E of the Capitol.

All members were present. ~~except~~

Committee staff present:

Mary Galligan, Legislative Research  
Mary Torrence, Assistant Revisor of Statutes  
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Dr. Allan T. Kimmell, Livestock Commissioner of the Animal Health  
Department

On today's agenda are bills: SB563, SB515, and SB518.

The Chairman pointed out the Memorandum before the Committee. (Attachment #1) It is from the Kansas Legislative Research Department, dated February 24, 1988. This is a table which displays the major provisions of SB563 and HB2747, and provides a comparison with existing laws. There was Committee discussion, and some questions were answered by staff concerning the handout.

The Chairman welcomed Dr. Allan Kimmell, Livestock Commissioner, who answered some questions from the Committee. Following that Dr. Kimmell made his formal presentation. It is part of these Minutes. (Attachment #2) In addition he handed out for the Committee a paper dated February 8, 1988, Thoughts and Costs of a State-wide Kennel Inspection (Attachment #3)

Also, a handout was before the Committee from Dr. William H. Olson, Acting Area Veterinarian in Charge. His statement represents the position of the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), and Veterinary Services, concerning State Animal Welfare laws. It states that it generally supports endeavors by State Legislatures which are consistent with the intent and purposes of the Animal Welfare Act as amended. (Attachment #4)

In answer to questions, Dr. Kimmell said his organization works with USDA on a day to day basis. The big drawback is in the enforcement of federal regulations. The Animal Welfare Act is complex enough that federal regulations allow a slow procedure to remove a license or call a hearing. A member paraphrased that Dr. Kimmell is saying the state can act more quickly to a problem area in a punitive manner. Dr. Kimmell said that was his understanding. He said he was trying to be neutral, yet he has worked on this problem for three years and has been involved in the evolution of this problem as it has developed. A member stated that from the standpoint of remedial action the Feds have a cumbersome process.

A member asked in regard to the side related to the inspection side, what was the Doctor's opinion in the manpower available to do a good job of inspecting. Dr. Kimmell said on the 112 pet shops the state averages four times a year with one veterinarian. He thinks the state does an excellent job. The complaint he hears is that the person who is selling birds or birdcages, or

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MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m. on February 25, 1988

pets they have raised, out of their homes. Or animals they have had on hand for 90 days. An excellent pet shop does not need four inspections a year. They pay \$100 for this. That does not pay the bill.

What concerns the Commissioner's Office in the kennel inspection is that they are spread out all over the state. It will take more time, more cost, and more mileage, as compared with the costs of the Feds. They average 1½ times per year. That 1½ times per year is probably not often enough. That is part of the problem. Dr. Kimmell said it must be kept in mind that one of the reasons they are criticized for not doing an adequate job is that they are not adequately funded.

A member asked if the federal government calls upon them to go out. Mr. Kimmell said not in the pet part. A member asked if there is any case where they have a contract with the federal government. Not in this, but Dr. Kimmell said that in some other entities they do have cooperative agreements with the USDA. For brucellosis. The assigned work goes to the veterinarian who is the closest, whether federal or state.

He said interstate movement becomes a federal problem because the Federal Interstate Movement Act took place, but if it were within the state's jurisdiction it would still go to the veterinarian who is the closest, whether federal or state.

The Chairman asked about the inadequacy of covering costs, on page 5 of the Memorandum from Legislative Research. He asked if they had done some projection on fee schedule they feel is adequate to fund this. Dr. Kimmell said one of his big concerns is that they have tried to do this, but the number is so elusive.

There was discussion concerning the local county health officer. Dr. Kimmell said that is exclusively an M.D. or nurse, and he did not think they could be utilized for animal inspection. Dr. Kimmell said the state needs a small animal specialist to do this inspecting for companion animals. They would like for those inspectors to have real expertise.

Senator Hoferer pointed out that if we were to have inspection there the state has different standards from the federal government, SB563 allows you by rule and regulation to adopt the Federal Animal Welfare Act standard. That could be put in the bill.

Dr. Kimmell said he saw nothing conflictive. It is common for their livestock inspector to work with the USDA.

A member asked if Dr. Kimmell would recommend leaving it up to rules and regulations or clarify it more and say the state regulations follow the federal. Dr. Kimmell said he would like to write their own rules and regulations. The USDA has offered to train the state inspectors. He would like to say that the state might develop better regulations with expertise than what exists in the federal act.

The Chairman asked if SB563 were passed what provisions are there presently in the budget and what would be the implementation time. Dr. Kimmell said that is an area that needs a lot of clarification. There is no provision in his budget today for this. Their agency is a fee fund agency and not companion animal money that operates their department. The Chairman asked Dr. Kimmell if he might give a projection between now and Monday, especially if the county health officer is going to be removed from the bill. Dr. Kimmell

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said they have thought that maybe they could use a veterinarian in a nearby town to act in their behalf. The Chairman said it appears that the conferee feels strongly the inspector should be someone who has a degree concerning animals.

A member stated that animals sold through interstate commerce require a veterinarian certificate. Dr. Kimmell said most are accredited by the USDA. Then you can do accreditation certificates. They do get those forms from the state office. By law they are only supposed to use those when they have found the animal healthy and document it. The same way with interstate. It does not always work. People do sometimes cheat. They know that.

The Chairman said he had received a call from someone speaking about certain kinds of animals that are prone to certain diseases which could be spread by someone coming on his property to inspect his kennel. That man's feelings are very strong. Dr. Kimmell agreed that is a real threat with the parvo virus. It is passed in fecal material from the dog. That is one of the reasons the state should insist that the inspectors wear disposable coveralls and hand coverings. The gentleman has a legitimate concern.

The Chairman thanked Dr. Kimmell for appearing, and said the Committee would continue on with this matter tomorrow, SB563.

The meeting was adjourned at noon.

*JW*  
#1  
Senate FSA  
2/25/88  
Attachment

The following table displays the major provisions of S.B. 563 and H.B. 2747 and provides a comparison with existing law.

Provision	Existing Law	S.B. 563	H.B. 2747
<u>Licensure and Certification</u>			
Animal Dealers	Animal dealers licensed by the USDA are not required to have a state license.	After January 1, 1989, all animal dealers, including those with residential dog or cat raising operations if more than five litters or 24 or more animals are sold per year, must have a state license for each animal dealer premises. (Sec. 2) The licensure requirement for wholesalers of animals other than dogs and cats would be deleted.	Wholesalers not licensed by the USDA would have to be licensed by the Commissioner as of January 1, 1989. Wholesalers licensed by the USDA would have to have a certificate of registration issued by the Commissioner. (Sec. 2)
Pet Shops	All pet shops must be licensed by the state unless the Commissioner grants a person a license to operate pet shops at more than one location.	Includes in the definition those residential dog and cat raising operations where more than five litters or 24 or more animals are sold per year. (Sec. 3)	Requires persons operating "animal retail shops" to be licensed by the state. (Sec. 3)
Pounds and Animal Shelters	Cities of the first class operating a pound or any corporate entity operating an animal shelter must have a state certification of registration. The certificates are valid for five years. No fee is charged for the certificate.	The same entities would have to obtain state licenses to operate. The licenses would be valid for one year. (Sec. 4)	Same as S.B. 563 (Sec. 4)
Hobby Kennel Operator	Not included as a separate class in current law.	Must have a state certificate of registration on and after January 1, 1989. (Sec. 5)	"Kennel operators" not licensed by the USDA would have to obtain a state license. Those licensed by the USDA would have to be registered with the state. (New Sec. 5)
Research Facilities	Defined, but not required to be registered or licensed. Schools and colleges are not defined as research facilities.	Definition remains the same. [Sec. 1(v)] All required to be licensed on and after January 1, 1989. (Sec. 6)	Would require state licensure of research facilities not licensed by the USDA. Federally licensed facilities would have to be registered with the state. (New Sec. 7)

<u>Provision</u>	<u>Existing Law</u>	<u>S.B. 563</u>	<u>H.B. 2747</u>
Animal Auction Manager	Not defined in current law.	Not defined in the bill.	Would require state licensure of animal auction managers not licensed by the USDA. Federally licensed auction managers would have to be registered with the state. (New Sec. 8)
<u>Definitions</u>			
Adequate Water	Continuously supplied or at intervals not to exceed 24 hours.	Intervals not to exceed 12 hours. (Sec. 1)	Retains definition in existing law. [Sec. 1(a)]
Animal Dealer	A person who is not licensed by the USDA, but who sells animals to a federally licensed dealer or a federally registered research facility. A person who exclusively sells or donates animals born and raised on the person's residence premises or which have been owned and retained on the residence for 90 days or longer is not included in the definition.	A person who operates premises where dogs, cats, or both are sold, or offered or maintained for sale at wholesale for resale to another. The definition does not include pounds, shelters, or hobby kennels. (Sec. 1)	Separated into three classes: Animal wholesaler, animal retailer, and animal auction manager. None of the classes include individuals who sell or offer for sale only animals that they produce, raise or own. [Sec.1(f),(h) and (j)]
Hobby Kennel	Not specifically defined or regulated in the law.	Premises where dogs, cats, or both are produced, raised, and sold or maintained for sale by a person who resides on the premises. The definition applies only to those entities that produce, raise, and sell the lesser of three to five litters or 23 individual animals. (Sec. 1)	"Kennel operator" is defined as a person who operates an establishment where animals are maintained for boarding, training, or similar purposes for a fee or compensation or a place at which animals produced and raised by the kennel operator are sold or exchanged with or without charge. The definition does not include persons who have less than ten adult animals. [Sec. 1(p)]
Sanitize	No time interval.	Maximum interval of 24 hours. (Sec. 1)	Same as existing law. [Sec. 1(u)]

<u>Provision</u>	<u>Existing Law</u>	<u>S.B. 563</u>	<u>H.B. 2747</u>
<u>Inspections</u>			
Frequency	Requires regular inspections of state licensed and registered entities.	Inspections required prior to issuance of original licenses. Licensees must be inspected at least twice each year. Inspections, of licensees and registrants, are required upon determination by the commissioner that there are reasonable grounds to believe that a person is violating the act or rules and regulations. (Sec. 9)	Inspections of the premises of each applicant for an original license would be required. Inspections of licensees' premises would be required at least annually. No inspections would be made of registrants' premises. (Sec. 11)
Inspector Training	City and county health officers designated by the Commissioner are authorized to conduct the inspections.	Health officers must be trained by the Commissioner prior to conducting any inspections. (Sec. 9)	All inspections under the act would be made by a person with a bachelor's degree in animal science, or the equivalent, from an accredited university. (Sec 11)
Inspector Penalties	None	Persons authorized to make inspections and conduct investigations who knowingly falsify the results or findings of an inspection or investigation or who intentionally fail or refuse to make an inspection or conduct an investigation are guilty of a class A misdemeanor. (Sec. 9)	None
<u>Disposition of Confiscated Animals</u>	Animals euthanized or sold at Commissioner's discretion.	Animals may be returned to the owner if there is satisfactory evidence that the animals will receive adequate care by the owner. Costs of care while animals are in the custody of the Commissioner are to be paid by the owner. Animals may also be euthanized or sold at the commissioner's discretion. (Secs. 7, 8, and 11)	Impoundment of any animals in the possession of a person convicted of a violation of the act would take place only by order of the court. The animals must be returned to the person who owns them if there is satisfactory evidence that the animals will receive adequate care from their owner. (Sec. 14)

<u>Provision</u>	<u>Existing Law</u>	<u>S.B. 563</u>	<u>H.B. 2747</u>
<u>Penalties</u>			
Criminal	Failure of licensees or registrants to adequately house, feed, and water animals is a class C misdemeanor. Animals are subject to seizure and impoundment.	Repealed. (Sec. 15)	Independent contractors, agents, servants, stockholders, directors, officers or employees would also be covered by the criminal sanction. (Sec. 15)
	Violation of the act or any regulation is a class A misdemeanor. Continued operation after conviction or guilty plea constitutes separate violation for each day of operation.	Same. (Sec. 11)	Same (Sec. 14)
Civil	None	Maximum \$2,000 fine for each violation imposed in accordance with the Administrative Procedures Act. The commissioner may impound the animals of persons who are required to be licensed under the act but who fail to comply with the act and who endanger the health, safety, or welfare of their animals. (Sec. 8)	None
<u>Grounds for Action Against License or Certificate of Registration</u>			
ificate	Any denial, suspension, or revocation must be preceded by a hearing and a determination that the housing facility or primary enclosure is inadequate, or that feeding, watering, sanitizing, and housing practices are not consistent with the act.	Same criteria for denial, suspension, or revocation as for licenses. (Sec. 7)	The only grounds for denial, nonrenewal, suspension, or revocation is failure to hold a valid USDA license. (Sec. 8)

<u>Provision</u>	<u>Existing Law</u>	<u>S.B. 563</u>	<u>H.B. 2747</u>
License	Specific grounds for refusal to issue or renew, suspend, or revoke are enumerated in the law.	The grounds in existing law would apply to licenses and certificates of registration. Refusal to grant any action against a license would have to be in accordance with the APA. Animals would be impounded by the Commissioner if there are reasonable grounds to believe the animals' health, safety, or welfare is endangered. (Sec. 7)	Conviction of a crime involving misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals would no longer be an absolute bar to licensure. Misrepresentation through advertising, salespersons or agents would have to be shown to be a continuing activity. (Sec. 9)
<u>Records</u>	General authorization to adopt rules and regulations.	Requirement that all licensees maintain records relating to the sale or transfer of any dog or cat for a period of at least 12 months. The contents of the records are specified. Records of all deaths would also be required to be kept for at least 12 months.	Same as existing law. (Sec. 12)
<u>Fees and Disposition of Fees</u>			
Licenses	\$100 for year or part thereof, not refundable. Fees deposited in Animal Disease Control Fund.	Not to exceed \$100 as fixed in rules and regulations. Deposited in same fund. (Sec. 12)	\$100 (New Sec. 16)
Certificates of Registration	None	Not to exceed \$25, nonrefundable, remitted to Animal Disease Control Fund. (Sec. 12)	\$25 (New Sec. 16)
Inspection	None	Actual cost of follow-up inspections if deficiencies have not been corrected. (Sec. 12)	Same as S.B. 563 (New Sec. 16)



COMMITTEE MEETING ON SB563

Mr. Chairman, Members of the Committee: I am Dr. Allan Kimmell, Livestock Commissioner of the Animal Health Department.

I'm here today to help clarify our position in the proposed legislation and explain our obligations and duties under the present Kansas Statutes.

The duties of the Livestock Commissioner and the Animal Health Department is spelled out in Article 6, Chapter 47. Our primary duty is to protect the health of domestic animals of the state from all contagious or infectious diseases. Certain powers of quarantine, licensing and regulations are stated to carry out these duties. We regulate licenses and inspect many facets of the livestock industry in the fulfillment of these duties. Public livestock markets, feedlots and disposal of dead animals are regulated by our department. The registration, inspection and investigation of marks and brands are also included in our Division of Brands.

In 1973 a new duty was added that became Article 17, Chapter 47. This was the Animal Dealers Law and defined animal as any live dog, cat, rabbit, rodent, non-human primate, bird or other warm blooded vertebrate but excluded horses, cattle, sheep, goats, swine and domestic fowl. In reality, these statutes set in motion our licensing and inspection of pet shops and our registering animal shelters or pounds in cities of the first class. It spells out exemptions of all holders of licenses under Public Law 91-579--commonly called the National Animal Welfare Act of 1975.

This Federal Law regulates interstate movement of companion animals.

We are convinced from the amount of adverse publicity concerning these animals shipped from Kansas, problems exist in the companion animal industry. The so called puppy mills exist in probably every state that raises them commercially. I dislike the term puppy mill and believe the number of commercial kennel

*Senate*  
*2/25/88*  
*Attachment #2*

owners and operators that do not do a good job is minimal. However, we are in support of a state licensing program that would allow us to address the problem. We must emphasize that the funding be adequate to develop, implement and administer a strong inspection program.

Attached is a copy of the import requirements of dogs and cats entering Kansas. We do not require any standards for those animals being shipped from Kansas.



ANIMAL HEALTH DEPARTMENT  
LONDON STATE OFFICE BUILDING  
900 S.W. JACKSON ST. SUITE 451  
TOPEKA, KANSAS 66612-1273  
(913) 296-2326

February 8, 1988

THOUGHTS AND COSTS OF A STATE-WIDE KENNEL INSPECTION

The number of kennels in Kansas is unknown. It is known that 550 kennels are presently licensed by USDA. In addition they have a list of 1800 names that either have an expired USDA license or have operated without a license.

We are assuming that in addition to the known 550 kennels it is possible to have another 1200 kennels that would qualify under the proposed state program.

We are presently inspecting 112 pet shops and 24 pounds or animal shelters in 1st class cities. Thus, our total facilities that would be licensed and inspected could number 1886 establishments.

In addition to our present staff we feel we must have a Veterinarian to implement, develop and supervise this important program. He would occupy an office space in our department. This Veterinarian would have qualifications that would make him very knowledgeable in the companion animal field. His salary range would be similar to our presently employed Veterinarian II. Thus his salary, fringe benefits, travel, per diem, etc. should approach \$40,000. per annum.

An Office Assistant III would be needed to implement and maintain all registrations, licensing, applications and inspection reports. This position would also be responsible for seeing that fees were properly received and accounted for.

The inspectors in the field would need to be well trained and have knowledge concerning sanitation and cleanliness. They need to understand good kennel construction and animal space requirements. They also need be knowledgeable in animal diseases and disease prevention. These people would be of high caliber and would serve to improve the quality of raising the standards of this industry. While they need not be veterinarians, they should have broad knowledge and be able to communicate with both professional people and workers in the kennel industry. We hope these people could be employed in Range 19 or Range 21.

2/25/88  
Attachment #3

## INSPECTION DUTIES

The number of inspections per year should not be spelled out but should average two (2). Some kennels would need more, some less.

Assuming 1886 establishments were inspected 2 times annually, they would total 3,772 inspections and assuming that each inspector would make 4 inspections per day and in a 200 working day year, he/she would make 800 inspections. Thus five inspectors would be necessary to carry out the duties.

In addition to the kennels being inspected, a registration fee of \$25.00 would be required by all hobby breeders. Hobby breeder will be defined in the statute. These breeders will not be inspected unless a valid complaint was filed. We assume that approximately 2,000 of these establishments exist in Kansas. Kansas is shipping approximately 150,000 puppies annually in interstate commerce.

The puppy industry in Kansas must change to correct the bad image that has been generated. A strong inspection program with adequate funding can correct this problem, and the cost would be less than \$2.00 per puppy. However, to accomplish an effective program, money must be available from sources other than fees for a long enough period of time to structure a workable program.

If our guesstimate is accurate for number of kennels, hobby breeders and the number of personnel needed for any effective bill, a cost of \$235,000 is not unrealistic.

ATK:lms



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Veterinary  
Services

444 SE Quincy, Rm 136  
Topeka, KS 66683

February 25, 1988

Senator Edward Reilly  
Topeka State Capitol Building, Room 255 E  
Topeka, KS 66621

Dear Representative Reilly:

The following statement represents the position of USDA, APHIS, Veterinary Services, concerning State Animal Welfare laws:

The Animal Welfare Act as amended is administered by the Animal and Plant Health Inspection Service, U. S. Department of Agriculture, and is intended to ensure that animals used in research, or for exhibition purposes, or for use as pets, are provided humane care and treatment. The Department, therefore, generally supports endeavors by State Legislatures which are consistent with the intent and purposes of the Act.

William H. Olson  
Acting Area Veterinarian in Charge

cc: R. L. Rissler  
Assistant Director  
Office of the Assistant Deputy Administrator  
Room 748  
Hyattsville, MD

R. L. Evinger  
Acting Director  
CRO



APHIS—Protecting American Agriculture

2/25/88  
Attachment #4