

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Susan Roenbaugh at _____
Chairperson

9:00 a.m./~~p.m.~~ on March 2, 1990 in room 423-S of the Capitol.

All members were present except: Representative Hamm
Representative Heinemann
Representative Lacey
Representative Larkin
Representative Solbach

Committee staff present:
Raney Gilliland, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee:

Chairman Roenbaugh announced the committee would work HB 2787 bonding of livestock dealers, with amendments. The Chairman reminded the committee that a motion was made by Representative Solbach and seconded by Representative Amos before adjournment at the February 28 meeting to accept the amendments.

Representative Mollenkamp explained the amendments to HB 2787 and stated there should be another change if this bill is to be worded exactly the same as the federal Packers and Stockyards Act. This change is not shown on the "balloon". (Attachment I).

Mike Beam, Kansas Livestock Association, clarified the need to change an upper threshold figure for bond coverage from \$50,000 to \$75,000 to conform with the federal Packers and Stockyards Act.

Representative Mollenkamp made a substitute motion to change the wording so it will be exactly parallel to the wording in the Packers and Stockyards Act. Seconded by Representative Amos. The motion carried.

Representative Mollenkamp made a motion to report the bill out favorably. Seconded by Representative Samuelson. The motion passed.

The Chairman announced to the committee that there would be no meetings next week.

The meeting was adjourned at 9:10 a.m.

HOUSE BILL No. 2787

By Representatives Mollenkamp, Amos, Crumbaker, Flower, Fry, Catlin, Graeber, Gross, Guldner, Hamm, Holmes, Larkin, J.C. Long, Lucas, McClure, Mead, D. Miller, Moomaw, O'Neal, Patrick, Reinhardt, Samuelson, Shallenburger, Shore, Smith and Vancrum

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AN ACT concerning livestock dealers; relating to the bonding thereof; amending K.S.A. 47-1807 and repealing the existing sections

47-1804 and

redefining livestock dealers to include video dealers;

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

New Section 1. (a) Every livestock dealer required to be registered pursuant to K.S.A. 47-1806, and amendments thereto, upon notification by the livestock commissioner of the amount of bond required, shall file with the livestock commissioner a bond with good corporate surety qualified under the laws of the state of Kansas in a sum computed by determining the average sales or purchases, or both, of livestock during two business days in the preceding 12 months and by using 260 days as the basis of computing the number of business days in such a period. In cases where a business operation is being commenced, an estimated amount of business to be transacted during the next 12 months may be used subject to adjustment later, if indicated. In no event shall the bond be for an amount less than \$5,000.

Except if bonded under the packers and stockyards act, 1921, as amended and supplemented, 7 U.S.C. 181 et seq.,

dividing the dollar value of livestock sold during the preceding business year, or the substantial part of that business year, in which the market agency did business, by the actual number of days on which livestock was sold. The divisor, the number of days on which livestock was sold, shall not exceed 130. The amount of bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$50,000, the amount of bond coverage need not exceed \$50,000 plus 10% of the excess over \$50,000, raised to the next \$5,000 multiple.

(b) The bond shall be in favor of the state of Kansas for the benefit of all persons interested, their legal representatives, attorneys or assigns and shall be conditioned on the faithful performance of all the registrant's duties as a livestock dealer. Any person injured by the breach of any obligation of the livestock dealer may commence suit on the bond in any court of competent jurisdiction to recover damages that the person has sustained, but any suit commenced shall either be a class action or shall join as parties plaintiff or parties defendant or other persons who may be affected by such suit on the bond. No bond shall be cancelled by the surety on less than 60 days' notice by mail to the livestock commissioner and the principal except that no such notice shall be required for cancellation of any bond by reason of nonpayment of the premium thereon. The liability

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ATTACHMENT I

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1 of the surety on the bond may continue for each successive regis-
 2 tration period the bond covers. The total liability of the surety shall
 3 be limited to the amount stated on the current bond or on an
 4 appropriate rider or endorsement to the current bond. It is the
 5 intent of this statute that the bonds be nonaccumulative, that stacking
 6 of bonds not occur in excess of the face value of the current bond.

7 (c) Whenever the livestock commissioner determines that any
 8 bond given by any livestock dealer is inadequate and insufficient
 9 security against any loss that might arise under the terms of the
 10 bond, the livestock commissioner shall require any additional bond
 11 that the livestock commissioner considers necessary to provide ad-
 12 equate security. If the livestock commissioner considers the financial
 13 condition of the surety upon any livestock dealer and the livestock
 14 dealer's bond to be impaired, the livestock commissioner shall re-
 15 quire any substituted or additional bond that the livestock commis-
 16 sioner considers necessary.

17 (d) In all actions hereafter commenced in which judgment is
 18 rendered against any surety company on any surety bond furnished
 19 under the provisions of this section, if it appears from the evidence
 20 that the surety company has refused without just cause to pay the
 21 loss upon demand, the court shall allow the plaintiff a reasonable
 22 sum as attorney fees to be recovered and collected as a part of the
 23 costs. When a tender is made by the surety company before the
 24 commencement of the action in which judgment is rendered and
 25 the amount recovered is not in excess of the tender, no such costs
 26 shall be allowed.

27 (e) Any person violating or failing to comply with the provisions
 28 of this section shall be deemed guilty of a class A misdemeanor.

29 (f) This section shall be part of and supplemental to article 18
 30 of chapter 47 of the Kansas Statutes Annotated.

See Insert

31 ~~Sec. 2.³ K.S.A. 47-1807 is hereby amended to read as follows:~~
 32 ~~47-1807. Any person violating or failing to comply with the provisions~~
 33 ~~of this act shall be deemed guilty of a class A misdemeanor and~~
 34 ~~upon conviction thereof shall be punished by a fine of not less~~
 35 ~~than \$100 nor more than \$500.~~

are

36 ~~Sec. 3.⁴ K.S.A. 47-1807 is hereby repealed.~~

37 ~~Sec. 4.⁵ This act shall take effect and be in force from and after~~
 38 ~~its publication in the statute book.~~

47-1804 and

Sec. 2. K.S.A. 47-1804 is hereby amended to read as follows:
47-1804. As used in this act, unless the context otherwise requires:

(a) "Commissioner" means the livestock commissioner of the state of Kansas.

(b) "Livestock" means cattle, swine, horses, sheep, goats and poultry.

(c) "Livestock dealer" means any person engaged in the business of buying or selling livestock in commerce, either on that person's own account or as the employee or agent of the seller or purchaser, or any person engaged in the business of buying or selling livestock in commerce on a commission basis and shall include any person who buys or sells livestock with the use of a video. "Livestock dealer" does not include any person who buys or sells livestock as part of that person's own breeding, feeding or dairy operation, nor any person who receives livestock exclusively for immediate slaughter.

(d) "Person" means any individual, partnership, corporation, company, firm or association. "Person" does not include any public livestock market operator licensed under K.S.A. 47-1001 et seq., and amendments thereto, or any feed lot operator licensed under K.S.A. 47-1501 et seq., and amendments thereto.