

Approved April 28, 1990
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

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

1:45 ~~XX~~ a.m./p.m. on April 25, 1990 ~~in room~~ at the rail -
3rd Floor of the Capitol.

All members were present ~~XXXX~~:

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

Conferees appearing before the committee: None

Chairman Roenbaugh opened discussion on Senate Bill 776 - the farm animal and research facilities protection act.

Representative Rezac presented to the committee an amendment to SB 776 which deleted animal dealers from title, added dogs and cats under Section 2 (a); added "(4) enter an animal facility to take photographs" on line 34, page 2 and deleted wording in Section 5. (Attachment I).

Discussion was held. Representative Rezac moved to pass favorably the amendment to SB 776. Seconded by Representative Larkin. Motion carried.

Representative Mollenkamp made a motion to amend the bonding bill, House Bill 2787, into SB 776. Seconded by Representative Hamm. Motion failed.

A motion was made by Representative Ensminger to pass as amended SB 776. Seconded by Representative Rezac. Motion passed.

The meeting adjourned at 1:55 p.m.

SENATE BILL No. 776

By Committee on Ways and Means

3-19

AD: JB
4-25-90
ATTACHMENT I

11 AN ACT concerning animals; enacting the farm animal and research
12 facilities protection act; prohibiting certain acts with regard to
13 certain animal facilities and providing penalties and remedies
14 therefor ~~relating to animal dealers, amending K.S.A. 1989 Supp.~~
15 ~~47-1722 and repealing the existing section.~~

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. This act shall be known and may be cited as the farm
19 animal and research facilities protection act.

20 Sec. 2. As used in this act:

21 (a) "Animal" means any warm or coldblooded animal used in food,
22 fur or fiber production, agriculture, research, testing or education
23 and includes poultry, fish and invertebrates.

24 (b) "Animal facility" includes any vehicle, building, structure,
25 research facility or premises where an animal is kept, handled, hou-
26 sed, exhibited, bred or offered for sale.

27 (c) "Consent" means assent in fact, whether express or apparent.

28 (d) "Deprive" means to:

29 (1) Withhold an animal or other property from the owner per-
30 manently or for so extended a period of time that a major portion
31 of the value or enjoyment of the animal or property is lost to the
32 owner;

33 (2) restore the animal or other property only upon payment of
34 reward or other compensation; or

35 (3) dispose of an animal or other property in a manner that makes
36 recovery of the animal or property by the owner unlikely.

37 (e) "Effective consent" includes consent by a person legally au-
38 thorized to act for the owner. Consent is not effective if:

39 (1) Induced by force or threat;

40 (2) given by a person the offender knows is not legally authorized
41 to act for the owner; or

42 (3) given by a person who by reason of youth, mental disease or
43 defect or under the influence of drugs or alcohol is known by the

dogs, cats,

1 offender to be unable to make reasonable decisions.

2 (f) "Owner" means a person who has title to the property, pos-
3 session of the property, whether lawful or not, or a greater right to
4 possession of the property than the actor.

5 (g) "Person" means any individual, *state agency*, corporation, as-
6 sociation, nonprofit corporation, joint stock company, firm, trust,
7 partnership, two or more persons having a joint or common interest
8 or other legal entity.

9 (h) "Possession" means actual care, custody, control or
10 management.

11 (i) "Research facility" means any place, laboratory, institution,
12 medical care facility, elementary school, secondary school, college
13 or university, at which any scientific test, experiment or investigation
14 involving the use of any living animal is carried out, conducted or
15 attempted.

16 Sec. 3. (a) No person shall, without the effective consent of the
17 owner and with the intent to damage the enterprise conducted at
18 the animal facility, damage or destroy an animal facility or any animal
19 or property in or on an animal facility.

20 (b) No person shall, without the effective consent of the owner,
21 acquire or otherwise exercise control over an animal facility, an
22 animal from an animal facility or other property from an animal
23 facility, with the intent to deprive the owner of such facility, animal
24 or property and to damage the enterprise conducted at the animal
25 facility.

26 (c) No person shall, without the effective consent of the owner
27 and with the intent to damage the enterprise conducted at the animal
28 facility:

29 (1) Enter an animal facility, not then open to the public, with
30 intent to commit an act prohibited by this section;

31 (2) remain concealed, with intent to commit an act prohibited
32 by this section, in an animal facility; ~~or~~

33 (3) enter an animal facility and commit or attempt to commit an
34 act prohibited by this section.

35 (d) (1) No person shall, without the effective consent of the owner
36 and with the intent to damage the enterprise conducted at the animal
37 facility, enter or remain on an animal facility if the person:

38 (A) Had notice that the entry was forbidden; or

39 (B) received notice to depart but failed to do so.

40 (2) For purposes of this subsection (d), "notice" means:

41 (A) Oral or written communication by the owner or someone
42 with apparent authority to act for the owner;

43 (B) fencing or other enclosure obviously designed to exclude in-

; or

(4) enter an animal facility to take photographs

I-2

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truders or to contain animals; or

(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(e) (1) Violation of subsection (a) is a class D felony if the facility, animals or property is damaged or destroyed to the extent of \$50,000 or more and. *Violation of subsection (a) is a class E felony if the facility, animals or property is damaged or destroyed to the extent of at least \$500 but less than \$50,000. Violation of subsection (a) is a class A misdemeanor if the facility, animals or property is damaged or destroyed is of the value of less than \$500 or is of the value of \$500 or more and is damaged to the extent of less than \$500.*

(2) Violation of subsection (b) or (c) is a class E felony.

(3) Violation of subsection (d) is a class B misdemeanor.

(f) The provisions of this section shall not apply to lawful activities of any governmental agency or employees or agents thereof carrying out their duties under law.

Sec. 4. (a) Any person who has been damaged by reason of a violation of section 3 may bring an action in the district court against the person causing the damage to recover:

(1) An amount equal to three times all actual and consequential damages; and

(2) court costs and reasonable attorney fees.

(b) Nothing in this act shall be construed to affect any other rights of a person who has been damaged by reason of a violation of this act. Subsection (a) shall not be construed to limit the exercise of any such rights arising out of or relating to a violation of section

~~3. Sec. 5. K.S.A. 1989 Supp. 47-1722 is hereby amended to read as follows: 47-1722. (a) Except as provided in subsection (c), any person who is acting as a pet shop operator or animal dealer on the effective date of this act but was not required to be licensed under K.S.A. 47-1701 et seq., and amendments thereto, as it existed on June 30, 1988, must apply for a license as a pet shop operator or animal dealer before January 1, 1989, if such person wishes to continue acting as a pet shop operator or animal dealer on and after January 1, 1989. However, such person shall not be required to have obtained a license until January 1, 1991, or such earlier time as the commissioner completes the inspection required by subsection (a) of K.S.A. 47-1709 and amendments thereto and grants or denies the person's application for an original license.~~

~~(b) Any certificate of registration issued to a pound or animal shelter before the effective date of this act and valid for the fiscal~~

I-4

1 year ending June 30, 1988, shall continue to be valid, unless sus-
2 pended or revoked, until January 1, 1989, at which time the cer-
3 tificate shall expire, and no additional license or fee shall be
4 required hereunder until January 1, 1989.

5 (c) Any person licensed as an "A" or "B" dealer under public
6 law 91-579 (7 U.S.C. 2131 et seq.) to act as or be an animal dealer
7 shall not be required to be licensed under this act.

8 (e) (d) This section shall be part of and supplemental to K.S.A.
9 47-1701 et seq., and amendments thereto.

10 ~~Sec. 6. K.S.A. 1989 Supp. 47-1722 is hereby repealed.~~

11 Sec. 57. This act shall take effect and be in force from and after
12 its publication in the statute book.

5