

Approved March 30, 1990
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:11 a.m. ~~XXX~~ on March 22, 1990 in room 423-S of the Capitol.

All members were present except: Senator McClure (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Tom Wilson, Director, Kansas Grain Inspection
Department
Dr. Allan Kimmell, Kansas Livestock Commissioner
Mike Beam, Kansas Livestock Association
Representative Gayle Mollenkamp
Ken Carpenter, Attorney, Topeka
Dr. D.A. Hogan, Manhattan, Kansas
Wendell E. Maddox, Jr., Regional Director,
The Humane Society of the
United States, Kansas
City, Missouri

Senator Allen called the Committee to order and attention to HB 3071 and then called on Tom Wilson to testify.

Mr. Wilson explained that HB 3071 corrected a printing error that had been made when the 1989 Supplements were printed. HB 3071 will correct the statute so that it will read that a late penalty fee be \$5.00 and not the \$3.00 the misprinted statute states.

The Chairman called for action on HB 3071.

Senator Doyen made a motion that the Committee recommend HB 3071 for passage by being placed on the Consent Calendar. Seconded by Senator Lee. Motion carried.

Senator Allen turned Committee attention to HB 2787 and called on Dr. Kimmell.

Dr. Kimmell expressed support for HB 2787 and stated that the proposed bill would help with enforcement of the licensing of livestock dealers.

In answer to a Committee question, Dr. Kimmell answered that there are 127 registered licensed livestock dealers in Kansas and that no video livestock dealers are licensed in the state at this time.

The Chairman called on Mike Beam to testify.

Mr. Beam gave the Committee copies of his testimony (attachment 1) and expressed support for HB 2787.

The Chairman called on Representative Mollenkamp to testify.

Representative Mollenkamp gave the Committee copies of his testimony (attachment 2) and expressed support for HB 2787 and recommended passage by the Committee and the Senate.

The Chairman called on Senator Montgomery.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:11 a.m. ~~p.m.~~ on March 22, 1990

Senator Montgomery gave the Committee copies of a proposed amendment for HB 2787 (attachment 3) and explained that the proposed amendment would eliminate the requirement requiring a licensed "B" animal dealer to be inspected. This would then eliminate the requirement of being inspected both federally and by the state. Senator Montgomery stated that there are 44 class "B" brokers in Kansas. No other businesses in the state are required to have double inspections and if it continues for kennels then a good group of businesses will be out of business. Senator Montgomery called on Ken Carpenter to comment.

Mr. Carpenter expressed support for the amendment offered by Senator Montgomery.

In answer to a Committee question, Mr. Carpenter answered that if a person wanted to turn in a complaint about a federally licensed kennel that one would give the complaint to Dr. Kimmell and that he in turn would turn the complaint in to the federal office.

Senator Montgomery stated that a penalty section needed to be added to the proposed amendment.

When asked to comment, Dr. Kimmell, explained that the federal inspection office has been under reorganization and many changes have been taking place but that, as he understood, if a person wanted to make a complaint about a federally licensed kennel that one would make their complaint to the office in Dallas, Texas.

The Chairman noted that he believed a complaint could be made to any County Attorney and action started from that point instead of contacting the Dallas office.

Further Committee discussion pointed out that in the proposed New Section 5 that it should state that any animal purchased for resale, whether purchased out-of-state or within the state, should be purchased from a licensed dealer.

In answer to a question about administering the state licensing of kennels, Dr. D.A. Hogan, who was present, answered that he had been hired to administer the program after the passage of the "puppy mill" legislation. Dr. Hogan stated the legislation was plagued with problems. The numbers of kennels that were supposed to be in the state did not materialize and because of funding problems he stepped down from the position. Dr. Hogan explained that he then went to work for the federal licensing program where he found much reorganization taking place. Dr. Hogan stated a need for regulations to be different for large animals and for small animals. because the federal system is not working and if it were working then there would be no need for small animal legislation.

It was stated that if the "B" dealers are exempted from state inspections that do not want changes that will allow the "A" dealers to become "B" dealers.

Wendell Maddox, Jr. gave copies of a letter he had written to Senator Francisco (attachment 4) and stated that whatever changes are made that he did not approve of changes that would allow "B" dealers to be exempt and then those changes allowing "A" dealers to change to "B" dealers.

Scheduled Committee time had elapsed; the Chairman adjourned the Committee at 11:04 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: March 22, 1990

NAME	ADDRESS	ORGANIZATION
Darren McElfresh	Rt. 2 Ottawa	Franklin Co, 4-H ^{Citizen-} _{ship}
Stephanie Heinich	1349 S. Poplar Ottawa	Franklin Co. 4-H ^{Citizenship} _{Team}
Brent Satterlee	534 North Cherry Ottawa	"
Bobby Johnson	408 W. 8th Ottawa	Fr. Co. 4-H C.T.
Jason Burnett	P.O. Box 5 Puncheon	"
Melissa Hoyt	RR#2 Remona	Franklin Co. 4-H ^{literacy} _{Team}
Anna Rossman	RR#2 Remona	Franklin Co. 4-H
Bridget Cover	723 S. Oak Ottawa	" "
Shane Adams	RR1 Box 122 Williamsburg	Franklin Co
Audra Higley	R.R.#1 Box 45 Williamsburg	Franklin Co. 4-H
Helen Stinebaugh	R.R.#1 Williamsburg	Franklin Co. 4-H
Tamy Lyden	R.R.#3 Waverly	Franklin Co. 4-H
Bill Missich	RR2 Wellsville	Franklin Co. 4-H
A. T. Kinnel	Topeka	Animal Health Dept.
John Masick, Jr.	RR2 Wellsville	Franklin 4-H
Dr. Ellen Currod	Courthouse Ottawa	Franklin Co 4H
Wendell Muldrow	K.C. KS	HSUS
D.A. Hogan	Manhattan, KS	
BERKLEY KERR	RR1 SILVER LAKE KS	



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Owms and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

March 21, 1990

To: Senate Agricultural Committee
Senator Jim Allen, Chairman

From: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Re: House Bill 2787

The Kansas Livestock Association supports House Bill 2787, particularly the provision of Section 3. This change will simply increase the penalty that the Kansas Animal Health Department can assess individuals who choose not to register as a livestock dealer.

This dealer registration requirement was enacted in 1984 and supported by the Kansas Livestock Association. We supported it because USDA required states to have such a provision before obtaining an increase in the status for disease ratification programs.

We are now considered a tuberculosis free state and a "Class A" state for brucelosis purposes. The dealer registration law requires such dealers to keep records for a minimum of 2 years for livestock they handle. This allows the Kansas Animal Health Department and USDA to help trace back to the herd of origin any animals that later show infections of contagious diseases.

Last summer the Kansas Livestock Association had a Animal Health Department Study Committee that met on several occasions to look at the programs and funding of this agency. It was brought to our attention that some dealers choose not to pay the \$25.00 registration fee. Perhaps this increase in penalty will be more enticement and help generate a little more revenue to the Animal Health Department.

Again we support House Bill 2787. I would be happy to respond to any questions or comments.

Senate agriculture committee

3-22-90

attachment 1

GAYLE MOLLENKAMP
 REPRESENTATIVE, 118TH DISTRICT
 LOGAN, GOVE, TREGO, GRAHAM,
 WALLACE AND PARTS OF WICHITA AND
 ROOKS COUNTIES
 HC2, BOX 5
 RUSSELL SPRINGS, KANSAS 67755-0005



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: AGRICULTURE AND SMALL BUSINESS
 ENERGY AND NATURAL RESOURCES
 LOCAL GOVERNMENT

Testimony Senate Agriculture Committee

Thank you, Mr. Chairman and members of this committee for allowing me to appear before you today in behalf of HB 2787.

The purpose of this bill is to protect the producer and sellers of livestock by requiring any livestock dealer or video dealer who buy and sell livestock on a commission basis to be bonded and registered with the Kansas Livestock Commission or be registered and bonded with the Federal Packers and Stockyards Act 7 USC 181. The language and bond requirements under this bill and the Packers and Stockyards Act are the same.

The peanut of this bill is the penalty Section 3. Any person violating or failing to comply with the provisions of this act shall be deemed guilty of a Class A misdemeanor. Class A misdemeanor levies a fine of up to \$2,400. The Judge could require some jail time. Present law requires a minimum of \$100 and not more than \$500 for dealing in livestock sales without being registered.

Dealers who buy and sell without being registered or bonded who are confronted, just pay their fine and continue business as usual. Under current law, there is no incentive to be registered or bonded. This has resulted in livestock producers receiving bad checks for livestock and they cannot file against the dealers bond to cover their loss.

The intent of this bill is to register and bond livestock dealers and have the same requirements as the surrounding states; Oklahoma, Nebraska, Missouri, Minnesota, North Dakota and Montana use the same language.

I strongly support HB 2787 as I have two young ranchers in my district holding a bad check for over \$250 thousand dollars received in payment for livestock. The dealer was not registered or bonded. He, in turn, sold the cattle to a third party who gave him a bad check. The first seller has a bad check and cannot get their livestock back. We need this bill and need to enforce it. I ask for your support of HB 2787.

I will stand for questions.

Gayle Mollenkamp
 Gayle Mollenkamp
 Senate Agriculture Committee
 3-22-90
 attachment 2

§ 201.30 Amount of market agency, dealer and packer bonds.

(a) *Market agency selling livestock on commission.* To compute the required amount of bond coverage, divide 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 percent of the excess over \$50,000, raised to the next \$5,000 multiple. In no case shall the amount of bond coverage for a market agency selling on commission be less than \$10,000 or such higher amount as required to comply with any State law.

(b) *Market agency buying on commission or dealer.* The amount of bond coverage must be based on the average amount of livestock purchased by the dealer or market agency during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased during the preceding business year, or substantial part of that business year, in which the dealer or market agency or both did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of the bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$75,000, the amount of bond coverage need not exceed \$75,000 plus 10 percent of the excess over \$75,000, raised to the next \$5,000 multiple. In no case shall the amount of bond coverage be less than \$10,000 or such higher amount as required to comply with any State law.

(c) *Market agency acting as clearing agency.* The amount of bond coverage must be based on the average amount

of livestock purchased by all persons for whom the market agency served as a clearor during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased by all persons for whom the market agency served as a clearor during the preceding business year, or substantial part of that business year, in which the market agency acting as clearing agency did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) 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 \$75,000, the amount of bond coverage need not exceed \$75,000 plus 10 percent of the excess over \$75,000, raised to the next \$5,000 multiple. In no case shall the amount of bond coverage be less than \$10,000 or such higher amount as required to comply with any State law.

(d) *Packer.* The amount of bond coverage must be based on the average amount of livestock purchased by the packer during a period equivalent to 2 business days. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased during the preceding business year, or substantial part of that business year, in which the packer did business, by one-half the number of days on which business was conducted. The number of days in any business year, for purposes of this regulation, shall not exceed 260. Therefore, the divisor (one-half the number of days on which business was conducted) shall not exceed 130. The amount of the bond coverage must be the next multiple of \$5,000 above the amount so determined. In no case shall the amount of bond coverage for a packer be less than \$10,000.

(e) If a person applying for registration as a market agency or dealer has been engaged in the business of handling livestock before the date of the application, the value of the livestock

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1990

HOUSE BILL No. 2787

By Representatives Mollenkamp, Amos, Crumbaker, Flower, Fry, Gatlin, 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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animals; relating to animal and

of livestock dealers

and K.S.A. 1989 Supp. 47-1722

15 AN ACT concerning livestock dealers; relating to the bonding
16 thereof; redefining livestock dealers to include video dealers;
17 amending K.S.A. 47-1804 and 47-1807 and repealing the existing
18 section sections.

19
20 *Be it enacted by the Legislature of the State of Kansas:*

21 New Section 1. (a) ~~Every~~ Except if bonded under the packers
22 and stockyards act, 1921, as amended and supplemented, 7 U.S.C.
23 181 et seq., every livestock dealer required to be registered pursuant
24 to K.S.A. 47-1805, and amendments thereto, upon notification by
25 the livestock commissioner of the amount of bond required, shall
26 file with the livestock commissioner a bond with good corporate
27 surety qualified under the laws of the state of Kansas in a sum
28 computed by determining the average sales or purchases, or
29 both, of livestock during two business days in the preceding
30 12 months and by using 260 days as the basis of computing
31 the number of business days in such a period. In cases where
32 a business operation is being commenced, an estimated amount
33 of business to be transacted during the next 12 months may
34 be used subject to adjustment later, if indicated. Dividing the
35 dollar value of livestock sold during the preceding business year,
36 or the substantial part of that business year, in which the livestock
37 dealer did business, by the actual number of days on which livestock
38 was sold. The divisor, the number of days on which livestock was
39 sold, shall not exceed 130. The amount of bond coverage must be
40 the next multiple of \$5,000 above the amount so determined. When
41 the computation exceeds \$75,000, the amount of bond coverage need
42 not exceed \$75,000 plus 10% of the excess over \$75,000, raised to
43 the next \$5,000 multiple. In no event shall the bond be for an

Senate Agriculture Committee
3-22-90
attachment 3

1 amount less than ~~\$5,000~~ \$10,000.

2 (b) The bond shall be in favor of the state of Kansas for the
3 benefit of all persons interested, their legal representatives, attorneys
4 or assigns and shall be conditioned on the faithful performance of
5 all the registrant's duties as a livestock dealer. Any person injured
6 by the breach of any obligation of the livestock dealer may commence
7 suit on the bond in any court of competent jurisdiction to recover
8 damages that the person has sustained, but any suit commenced
9 shall either be a class action or shall join as parties plaintiff or parties
10 defendant or other persons who may be affected by such suit on the
11 bond. No bond shall be cancelled by the surety on less than ~~60~~ 30
12 days' notice by mail to the livestock commissioner and the principal
13 except that no such notice shall be required for cancellation of any
14 bond by reason of nonpayment of the premium thereon. The liability
15 of the surety on the bond may continue for each successive regis-
16 tration period the bond covers. The total liability of the surety shall
17 be limited to the amount stated on the current bond or on an
18 appropriate rider or endorsement to the current bond. It is the
19 intent of this statute that the bonds be nonaccumulative, that stacking
20 of bonds not occur in excess of the face value of the current bond.

21 (c) Whenever the livestock commissioner determines that any
22 bond given by any livestock dealer is inadequate and insufficient
23 security against any loss that might arise under the terms of the
24 bond, the livestock commissioner shall require any additional bond
25 that the livestock commissioner considers necessary to provide ad-
26 equate security. If the livestock commissioner considers the financial
27 condition of the surety upon any livestock dealer and the livestock
28 dealer's bond to be impaired, the livestock commissioner shall re-
29 quire any substituted or additional bond that the livestock commis-
30 sioner considers necessary [except this act shall not apply to those
31 who buy livestock for others incidentally to their own farming
32 operation].

33 (d) In all actions hereafter commenced in which judgment is
34 rendered against any surety company on any surety bond furnished
35 under the provisions of this section, if it appears from the evidence
36 that the surety company has refused without just cause to pay the
37 loss upon demand, the court shall allow the plaintiff a reasonable
38 sum as attorney fees to be recovered and collected as a part of the
39 costs. When a tender is made by the surety company before the
40 commencement of the action in which judgment is rendered and
41 the amount recovered is not in excess of the tender, no such costs
42 shall be allowed.

43 (e) Any person violating or failing to comply with the provisions

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1 of this section shall be deemed guilty of a class A misdemeanor.

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

4 Sec. 2. K.S.A. 47-1804 is hereby amended to read as follows:
5 47-1804. As used in this act, unless the context otherwise requires:

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

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

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

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

24 Sec. 3. K.S.A. 47-1807 is hereby amended to read as follows:
25 47-1807. Any person violating or failing to comply with the provisions
26 of this act shall be deemed guilty of a class A misdemeanor ~~and~~
27 ~~upon conviction thereof shall be punished by a fine of not less~~
28 ~~than \$100 nor more than \$500.~~

29 Sec. 3 4. K.S.A. 47-1804 and 47-1807 ~~is~~ are hereby repealed.

30 Sec. 4 5. This act shall take effect and be in force from and after
31 its publication in the statute book.

SEE ATTACHED

and K.S.A. 1989 Supp. 47-1722

3-3

Sec. 4. 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. 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 year ending June 30, 1988, shall continue to be valid, unless suspended or revoked, until January 1, 1989, at which time the certificate shall expire, and no additional license or fee shall be required hereunder until January 1, 1989.

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

~~(c)~~ (d) This section shall be part of and supplemental to K.S.A. 47-1701 et seq. and amendments thereto.

New Sec. 5. Any animal purchased out of state for resale by a person licensed as a "B" dealer under public law 91-579 (7 U.S.C. 2131 et seq.) shall be purchased from a state or federally licensed and inspected animal dealer.

RENUMBER SECTIONS ACCORDINGLY



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March 21, 1990

Senator James L. Francisco
Room 136 South State Capitol Bldg.
Topeka, KS 66612

Dear Senator Francisco:

I wanted to follow-up the phone conversation we had today regarding the proposed amendment to a bill that will exempt class B dealers from the Kansas Companion Animal Law.

As I stated, if this bill becomes law, an A dealer would merely transfer his license and become a B dealer.

I verified this with Dr. David Sabala, USDA, Ft. Worth, TX. His office is responsible for the State of Kansas.

DEFINITIONS: A DEALER - Raises and sells dogs or cats. Only buys them to replace breeding stock. License fee is a flat rate.

B DEALER - Raises, buys and sells dogs and cats. Buys and sells in other states. License fees are based on dollar amounts in transaction.

The procedure for changing from A dealer to a B dealer would be;

1. Request application--Re-apply for B license
2. Re-inspection of facility (depending on date of last inspection--may not be required).
3. License is granted--Provided there are no major deficiencies.
4. Record keeping orientation. Record keeping requirements are different because of fee structure.

National Headquarters:

Senate agriculture committee The Humane Society
of the United States
2100 L Street, NW
Washington, DC 20037

3-22-90

attachment 4

As you can see it is fairly easy to become a B dealer. If this law is passed, it is my opinion that most A dealers will apply for B dealers license.

If you wish to verify this information, feel free to contact Dr. Sabala or his supervisor, Dr. Walter Christenson at, (817) 885-6923.

Thank you for your consideration regarding this important humane matter.

Kind regards,

Wendell E. Maddox, Jr.
Wendell E. Maddox, Jr.
Regional Director