

Approved March 19, 1991  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at  
Chairperson

9:10 a.m./~~p.m.~~ on Tuesday, March 5, 19<sup>91</sup> in room 423-S of the Capitol.

All members were present ~~except~~

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

Conferees appearing before the committee: Wendell Maddox, Director, Midwest Regional  
Office, Humane Society of the United States,  
Kansas City, Missouri  
Dr. Dan Walker, Livestock Commissioner, State  
of Kansas  
Cindy Lash, Senior Auditor, Legislative  
Division of Post Audit, State of Kansas  
Don Rezac, State Representative, District 61,  
Emmett, Kansas

Chairman Hamm continued hearings on HB 2522 - an act concerning domestic animals; relating to animal retailers, wholesalers and auctions; licensure and registration thereof; fees.

Wendell Maddox, Director, Midwest Regional Office, Humane Society of the United States, testified against HB 2522 stating he felt there were some problems with USDA compliance, and without state law, the time frame would be so long that it would cause suffering to the animals. Mr. Maddox furnished the committee with copies of a report on USDA Compliance Cases. (Attachment 1). He further stated he was concerned about the funding to sustain the program and suggested a tax on dog food at the wholesale level. He stated that with the tax and with a registration fee on dog breeders, the program should be adequately funded.

Dr. Dan Walker, Kansas Livestock Commissioner, testified in opposition to HB 2522. He stated his testimony is an accurate representation of the Kansas Animal Health Board's position. They feel the Livestock Commissioner must have the mechanism to intervene in the protection of threatened animals. The amendments contained in HB 2522 would remove all regulatory authority over any kennel licensed under USDA. This would effectively repeal the intentions of the 1988 amendments to the Animal Dealers Act. According to the 1990 Post Audit Report, the most glaring defects in the past performance of his agency to implement this program have been lack of proper administrative initiative and proper funding mechanism. Dr. Walker asked the committee to work with him toward legislative changes which would then allow his agency to function as required by law to regulate this newly emerging industry. Certain definition changes in this bill are of merit and should be considered.

Cindy Lash, Senior Auditor, Legislative Division of Post Audit, State of Kansas, presented a Review of State Regulation Over Animal Breeders and Sellers in Kansas. (Attachment 2 - on file in Legislative Research Dept., Room 545 N., Capitol Building.) According to the Legislative Post Audit's findings, the Animal Health Department has not adequately implemented the program regulating the animal breeding and selling industry in Kansas

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE,  
room 423-S, Statehouse, at 9:10 a.m./~~p.m.~~ on Tuesday, March 5, 1991

nor does the regulatory program appear to be funded and staffed to efficiently and effectively carry out its responsibilities.

Representative Rezac presented testimony to the committee in favor of HB 2522. (Attachment 3). He stated one of the problems with state inspection is that the program has been underfunded. He feels this bill will help fund the state inspections and put the inspections where they are needed. Further, this bill allows to register USDA kennels and inspect upon written complaint. This would give state inspectors time to target areas of unlicensed kennels that need to be inspected. The 14-day period to set hearings would allow for due process of law and maybe save some problems in the future. He further stated the dog industry is a multimillion dollar business in the state and deserves the committee's best attention.

Written testimony was presented to the committee from Larry Shelton, Licensed Kansas Kennel Owner and Operator and a member of American Professional Pet Distributors, Inc. (Attachment 4).

Hearings were closed on HB 2522.

Representative Rock made a motion to approve minutes of February 27, 1991. Representative Reinhardt seconded the motion. Motion passed.

The meeting adjourned at 9:55 a.m. The next meeting of the House Agriculture Committee will be Wednesday, March 6, at 9:00 a.m. in room 423-S, State Capitol.

Office of  
Public Affairs

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## USDA DECIDES SIX ANIMAL WELFARE ACT COMPLIANCE CASES

WASHINGTON, Dec. 6--The U.S. Department of Agriculture settled six cases during October to enforce the humane care and treatment of animals regulated under the Animal Welfare Act.

James W. Glosser, administrator of USDA's Animal and Plant Health Inspection Service, said the cases resulted from earlier charges. Details are:

--James F. Daniel of Joshua, Texas, was ordered by an administrative law judge to cease and desist from future violations of the Animal Welfare Act and, in particular, from selling dogs without a federal dealer's license. Also, he was ordered to pay a \$2,000 civil penalty, which was suspended as long as he refrains from any future infractions of the law. USDA alleged that from August through December 1986, Daniel, without having a valid license, sold 66 dogs to two commercial facilities.

--Donna Marler, of Winfield, Kan., agreed to a cease-and-desist order and to be assessed a \$2,000 civil penalty without admitting or denying USDA charges that she violated licensing requirements of the Animal Welfare Act. USDA alleged that on at least eight occasions between Nov. 15, 1987, and Feb. 20, 1988, Marler sold at least 50 dogs to a licensed dealer without being licensed herself.

--Vernon E. Yates and Debra Parker, serving as company officers of Wildlife Rescue and Rehabilitation, Inc., in St. Petersburg, Fla., each agreed to a cease-and-desist order and to jointly pay a \$5,000 civil penalty without admitting or denying USDA charges that they moved animals intrastate and operated as animal exhibitors from March 26, 1983, to Feb. 27, 1989, without being licensed. USDA also charged that on four occasions between Jan. 12 and Dec. 8, 1988, company officials interfered with compliance inspections by refusing to allow APHIS personnel access to inspect their animals, facilities and business records.

--Emery Air Freight, Corp., of Palo Alto, Calif., agreed to the issuance of a cease-and-desist order and to pay a \$2,500 civil penalty without admitting or denying USDA charges that it failed to comply with transportation standards of the Animal Welfare Act. USDA charged that on Oct. 17 and 18, 1988, the company transported 25 voles (a type of small rodent) from Baltimore, Md., to Ann Arbor, Mich., and failed to exercise care in handling the shipment. Allegedly, the primary enclosures were damaged and some of the animals escaped, one of which died while being recaptured. Further, because the animals were not confined in a travel cage when the shipment was delivered to the consignee, it was rejected. Allegedly, Emery's employee returned to its facility and discarded the damaged travel cage and remaining animals in a trash dumpster.

- more -

--Gulf Exhibition Corporation, doing business as Gulfarium in Fort  
Lton Beach, Fla., agreed to pay a \$2,000 civil penalty and to cease and desist from future violations of the Animal Welfare Act, without admitting or denying USDA allegations that it provided substandard care and treatment for marine mammals held at its facility. The violation occurred on or about June 13, 1989, when Gulf Exhibition kept two sea lions in outdoor facilities and allegedly failed to provide them with shelter from extreme weather conditions and access to water, which resulted in the death of both animals.

--Nina Linch, of Conway, Ark., agreed to a cease-and-desist order and to pay a \$2,500 civil penalty without admitting or denying USDA charges that she violated licensing requirements of the Animal Welfare Act. USDA alleged that on 14 occasions between May 26, 1986 and Oct. 8, 1988, Linch bought and sold at least 20 monkeys wholesale without having a federal animal dealer's license as required.

Since 1966, the Animal Welfare Act has required that the care and treatment of certain animals be provided according to standards administered by APHIS. Animals protected by the law must be provided adequate housing, handling, sanitation, food, water, transportation, veterinary care and protection against extremes of weather and temperature. The law covers animals that are sold as pets at the wholesale level or are used for biomedical research or for exhibition purposes.

USDA enforces the act primarily through administrative prosecutions. Many of these cases are resolved through the consent decision provisions of the regulations. Under these provisions, USDA and the respondent named in the complaint agree to a stipulated order and penalties. If the case is not settled, there is a hearing before an administrative law judge who issues a decision. Any party may appeal the administrative law judge's decision to the USDA's judicial officer. The respondent may appeal an adverse decision by the judicial officer to the U.S. Court of Appeals. Failure to respond to the charges in the complaint results in the issuance of a default order by an administrative law judge who assesses penalties.

Animal dealers, breeders, brokers, transportation companies, exhibitors and research facilities must be licensed or registered. USDA employees make periodic, unannounced inspections to insure compliance. Action is taken against violators after efforts to secure compliance are unsuccessful. Glosser said.

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DON M. REZAC

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TOPEKA

HOUSE OF  
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MEMBER: ENERGY AND NATURAL RESOURCES  
TRANSPORTATION

TESTIMONY ON HB 2522  
AGRICULTURE COMMITTEE  
March 4, 1991

Thank you, Mr. Chairman and members of the Committee.

I am here today to testify in favor of HB 2522. I did request that this bill be drafted as a Committee bill and I want to thank the Committee for that.

The dog industry in Kansas is a multimillion dollar business. Over the past few years, it has had what I feel was very negative press.

I have been in on some news conferences, and I was here the day the dog biscuits reached the capitol from California. One of the problems with state inspection is that the program has been underfunded. This bill will help fund the state inspection and put the inspections where they are needed.

This bill allows to register USDA Kennels and inspect upon written complaint. This would give state inspectors time to target areas of unlicensed kennels that need to be inspected.

The bill has on Page 8 a section that deals with a 14-day period to set hearings. This will allow for due process of law and maybe save some problems in the future.

As I said at the beginning, the dog industry is a multimillion dollar business in the state, and it deserves our best attention.

Thank you. I'll be happy to answer any questions.

DON REZAC

*HS. AG.  
3-5-91  
ATTACHMENT 3*



AMERICAN PROFESSIONAL PET DISTRIBUTORS, INC.

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TESTIMONY OF *LARRY SHELTON*  
ON HOUSE BILL 2522  
BEFORE THE KANSAS HOUSE AGRICULTURE COMMITTEE  
MARCH 5, 1991

Prepared by *LARRY SHELTON*  
Licensed Kansas Kennel Owner and Operator,  
*MEMBER OF* American Professional Pet Distributors, Inc.  
(APPDI), a national companion animal humane care organization,

Mr. Chairman, members of the Committee, thank you for allowing me to testify today on House Bill 2522.

HB 2522 has several good provisions which would help strengthen and improve the companion animal business in Kansas. For example, I strongly support the establishment of tough penalties for anyone who fails to provide good companion animal care. I also strongly support expanding the licensing base to include pet retail outlets and animal wholesalers, a move which will raise more revenue for state enforcement activities.

I am deeply concerned, however, by HB 2522's provision to drop state inspections of companion animal facilities, except upon written complaint. This provision would undercut a program that is ensuring humane animal care and improving the companion animal industry. Eliminating state inspections would be counterproductive for several reasons.

First, while state inspectors tour many of the same facilities as USDA inspectors, state officials are often better able to enforce animal welfare laws. USDA inspectors do a fine job of flagging violators, but the USDA violations and appeal process is often so complicated and lengthy that violators don't get their USDA licenses revoked quickly.

In contrast, the Kansas enforcement process is streamlined. Upon receiving animal cruelty reports from a state inspector, the Kansas Attorney General can act quickly to seize or impound animals and to press charges against a violator. The result: the law is enforced much more quickly and effectively. Those who abuse animals are losing them.

H.S. Ag.  
3-5-91  
ATTACHMENT 4

LARRY SHELTON

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Second, the Kansas inspection program is a rallying point for industry self-policing efforts. The majority of Kansas companion animal breeders and brokers are ethical, responsible operators. We want comprehensive inspections of animal facilities and tough enforcement of animal welfare laws to stop the unethical few who would damage business for us all.

This past summer, for example, industry leaders met with the Governor and Attorney General to press for better enforcement of animal welfare laws. We worked with the Companion Animal Office to kick off our "Make Kansas Shine" program. If the state eliminates its comprehensive inspection program, the industry will lose the centerpiece of its program to promote humane care within its own ranks. We must retain this tool.

Third, animal rights groups like the Humane Society of the United States, which oppose commercial pet breeding, would immediately attack Kansas, claiming it had retreated from proper enforcement of animal welfare laws. The first victims of this attack would be the ethical breeders and brokers who most want to keep this program in place.

Moreover, states like California would likely use the elimination of this program as a pretext to attempt to block all sales of Kansas-bred companion animals. We should not provide California with the opportunity to launch this attack.

The best answer to this problem is to provide more funds to the state animal health commissioner to conduct more inspections, not fewer. We need a stronger state commitment to enforce existing animal welfare laws and find and prosecute violators.

Members of the Committee, I am very proud of what I do. I run a clean kennel, I raise healthy, happy puppies, and I am committed to the highest standards of humane care. I know the vast majority of Kansas breeders are also committed to humane care and ethical business practices. Our industry contributes \$43 million to the state's economy every year, and we want to continue to make that contribution.

State inspections play a vital role in ensuring good animal care and a responsible companion animal industry. I urge you to keep it in place.

Thank you. I'm happy to take questions.