

Approved April 29, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

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

7:30 a.m./~~p.m.~~ on Wednesday, April 24, 1991 in room 423-S of the Capitol.

All members were present except: Representative Freeman, excused
Representative Garner, excused

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

Conferees appearing before the committee: Ken Carpenter, Attorney, Topeka
Paul Decelles, Lawrence
Sharon Munk, Menlo
JoAnne Kieffer, Glen Elder
Opal Featherston, Whiting
Douglas Lambert, Vice President, Lambriar Inc.,
Mahaska
Ann Stacer, Topeka
Camille Nohe, Assistant Attorney General,
State of Kansas
Margaret Kerr, Silver Lake
Pinky Lewis, Independence
Ramona Amlong, President, Northwest Kansas
American Professional Pet Distributors, Inc.,
Dresden
Mike Beam, Kansas Livestock Association
Marilyn Farmer, Altoona
Audrey Rottinghaus, Seneca
Marcia Gitelman, President, Kansas Federation
of Humane Societies, Topeka
Roger Lambert, Lambriar Kennels, Mahaska
R. Daniel Walker, D.V.M., Kansas Livestock
Commissioner

Chairman Hamm opened hearings on SB 443 - concerning animals; relating to the importation and sale of exotic animals; establishing calfhood vaccination tags; registering original veterinary certificates; fees.

Ken Carpenter, Attorney, testified before the committee on SB 443. Mr. Carpenter voiced opposition to the new section 26 - the \$2.00 health certificate. He stated there is no realistic justification for additional funding. Mr. Carpenter furnished the committee with a copy of the new federal regulations. (Attachment 1). He further stated the amendment offered for criminal sanctions are disproportionate. Mr. Carpenter feels they should not use criminal sanction as the law punishes the wrong person.

Paul Decelles, Lawrence, testified that SB 443 is a flawed bill because it fails to recognize a fundamental distinction between companion animals and livestock. He further stated the certificate of registration (page 20, line 23-24) is set too high at \$150 and should be lowered back to \$25. Mr. Decelles also felt the Humane Societies should not have to pay \$300 to be licensed. (Attachment 2).

Sharon Munk, Menlo, testified in opposition to SB 443 as written. Ms. Munk furnished a balloon that Dr. Walker, the Federation of Kansas Humane Society, the Attorney Generals Office and APPDI all agree on. (Attachment 3).

JoAnne Kieffer, Glen Elder, testified before the committee stating the

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE,

room 423-S, Statehouse, at 7:30 a.m./~~p.m.~~ on Wednesday, April 24, 1991

Companion Animal Inspection program must be funded. She furnished the committee with copies of recommendations for enactment of a permanent Kansas companion animal advisory board and offered several amendments for the bill. (Attachment 4).

Opal Featherston, Whiting, testified in opposition to SB 443 stating the bill needs to be amended to change the extreme \$2 fee per animal. (Attachment 5).

Douglas Lambert, Mahaska, testified in support of raising the licensing fees of Kansas kennels from \$75 to \$150. His written testimony included proposed amendments to SB 443. (Attachment 6).

Ann Stacer, Topeka, testified against placing SB 443 in the hands of the Department of Agriculture. She feels the program should be placed in the Health Department which has in place a good history of inspection and enforcement. Ms. Stacer also would like to see a more equitable fee structure. (Attachment 7).

Camille Nohe, Assistant Attorney General, testified in opposition to SB 443 as it pertains to the animal dealer act. She stated the bill does not incorporate any of the meaningful substantive or procedural changes proposed by various constituencies seeking a toughened law for the benefit of the industry regulated, for the protection of helpless animals, and for strengthened and fair enforcement. (Attachment 8).

Margaret Kerr, Silver Lake, appeared before the committee voicing opposition to the suggestion of the pet industry policing their own industry. She feels this is a job for the state and federal governments.

Pinky Lewis, Independence, testified in opposition to SB 443. Ms. Lewis voiced her concerns on several areas of the bill. (Attachment 9).

Ramona Amlong, Dresden, testified before the committee with concerns regarding SB 443. She stated there is a need for positive legislation being passed this year. (Attachment 10).

Marilyn Farmer, Altoona, testified in opposition to SB 443. Ms. Farmer voiced concerns over several areas of the bill. She offered an amendment to read 10¢ additional for a health certificate per puppy sold. This will help fund the Companion Animal Act and will keep approximately 3,000 Kansans in business. (Attachment 11).

Mike Beam, Kansas Livestock Association, testified in support of SB 443 stating there is a need for additional funding for the Animal Health Department.

Audrey Rottinghaus, Seneca, informed the committee she is tired of the bad publicity Kansas receives from other states when they are not passing these bills themselves.

Marcia Gitelman, Topeka, testified in opposition to certain areas of SB 443 and gave suggested additions that would strengthen the Companion Animal Act. (Attachment 12).

Roger Lambert, Mahaska, testified before the committee recommending an increase in fees for creditable Kansas licensing.

Dr. Daniel Walker, Livestock Commissioner, testified on SB 443 and requested amendments and corrections to the bill. He stated these requested changes and additions to the present Law will create a model program for other states to look up to; a Law able to stand before critics; a Law that Kansans can be proud of because it will ensure that puppies and kittens produced in this state for consumers across the nation will be raised in clean,

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

room 423-S, Statehouse, at 7:30 a.m. ~~p.m.~~ on Wednesday, April 24, 1991

safe and healthy kennels with proper veterinary care. (Attachment 13).

A question and answer period followed the testimonies.

Chairman Hamm appointed a subcommittee to work on amendments to SB 443. The members of the subcommittee are Representative Rezac, Representative Reinhardt and Representative Bryant.

Representative Bryant made a motion to approve minutes of March 27, 28, 29, April 1 and 2. Representative Rock seconded the motion. The motion carried.

Representative Rezac announced the subcommittee will meet in Room 423-S at 3:00 p.m. today.

The meeting adjourned at 9:45 a.m.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FILED
U.S. DISTRICT COURT
DISTRICT OF KANSAS

JUN 13 11 08 AM '90

MARGARET L. KERR,
d/b/a KERR KENNELS,

Plaintiff,

v.

A.T. KIMMELL,
Livestock Commissioner of the State of Kansas,
ANIMAL HEALTH DEPARTMENT,

Defendants.

BY: *[Signature]* DEPUTY
CIVIL ACTION
NO. 89-4056-S

MEMORANDUM AND ORDER

This matter is before the court on defendants' motion for summary judgment. In this action, filed March 21, 1989, plaintiff alleges that the Kansas Animal Dealers Act, K.S.A. 47-1701, et. seq. (Supp. 1989), violates the Commerce and Supremacy Clauses of the United States Constitution, the Fourteenth Amendment guarantee of equal protection under the law, and the Fourth Amendment prohibition on unreasonable searches and seizures. Plaintiff seeks declaratory and injunctive relief pursuant to 42 U.S.C. §§ 1983, 1985, 1986, and 1988, as well as 28 U.S.C. §§ 2201 and 2202.

For purposes of defendants' motion, the court finds the following facts to be uncontested. Plaintiff, Margaret L. Kerr, is the owner-operator of Kerr Kennels, located near Silver Lake, Kansas. Plaintiff is in the business of breeding and selling dogs. Defendant, Dr. A.T. Kimmell, is the Livestock Commissioner of the State of Kansas charged with responsibility for implementing and administrating the Kansas Animal Dealers Act, K.S.A. 47-1701, et. seq. (Supp. 1989). Dr. D.A. Hogan, who has resigned this position,

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4-24-91
ATTACHMENT 1

be repeated every two (2) to three (3) weeks prior to the puppies twelfth (12th) week. In addition, sanitary environments and proper feeding are essential for disease control. Defendants also state that preliminary studies indicate that in excess of 179,000 puppies and kittens are potentially produced annually in Kansas. The economic value to the state is estimated in the millions of dollars.

A moving party is entitled to summary judgment only when the evidence indicates that no genuine issue of material fact exists. Fed. R. Civ. P. 56(c); Maughan v. SW Servicing, Inc., 758 F.2d 1381, 1387 (10th Cir. 1985). The requirement of a "genuine" issue of fact means that the evidence is such that a reasonable jury could return a verdict for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). The moving party has the burden of showing the absence of a genuine issue of material fact. This burden "may be discharged by 'showing' -- that is, pointing out to the district court -- that there is an absence of evidence to support the nonmoving party's case." Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986). "[A] party opposing a properly supported motion for summary judgment may not rest on mere allegations or denials of his pleading, but must set forth specific facts showing that there is a genuine issue for trial." Anderson, 477 U.S. at 256. Thus, the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment. Id. The court must consider factual inferences tending to show triable issues in the

Fourth Judicial District of Kansas

Court Building
Ottawa, Kansas 66067
(913) 242-6000

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DONALD D. WHITE, COUR
ASSOCIATE DISTRICT JUDGE, K.

JULES V. DOTY
DISTRICT JUDGE

February 20, 1991

Susan Stanley
Assistant Attorney General
1620 Tyler
Topeka, Kansas 66612

Benjamin Wood
Attorney at Law
10901 Lowell Avenue
Suite 120
Overland Park, Ks. 66210

Re: State of Kansas vs. Marilyn Marsh
Case Number 90CR372

Letter Opinion

Counsel of Record:

At the hearing on the Motion to Suppress heard on this date, the state requested that I rule upon the constitutionality of the statute in this case, particularly K.S.A. 47-1707(c) 1990 Supp.

I did not specifically rule on this request, however in order that my position be clearly understood, I decided to issue this letter opinion.

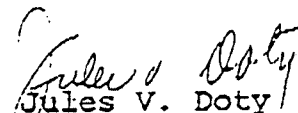
It is my opinion that the statute at issue is constitutional. However, until amended, or regulations are adopted by the Livestock Commission the only inspections or searches under the statute as it now exists are only legal if consent of the owner of the business is obtained. I say this because of the long line of cases discussed at the hearing relative to the fourth amendment rights of the business owner.

I found that this search, or inspection, met two of the tests set forth in New York v. Burger, 482 U.S. 691 (1987), however the statute does not meet the third prong of the test set forth in that opinion.

Page 2

Therefore, in order for searches or inspections other than those done pursuant to the consent of the proprietor, it is necessary that either the statute be amended to protect the fourth amendment rights of the proprietor, or by adoption of appropriate regulations limiting the time, place and scope and providing a remedy for those who refuse to consent to the inspection or search so that they may have their rights addressed in a timely manner in a Court of proper jurisdiction.

Very truly yours,


Jules V. Doty
District Judge

JVD/cf

EFFECTIVE DATE: This final rule shall become effective March 18, 1991. Plans for providing exercise of dogs in § 3.8 and for promoting the psychological well-being of nonhuman primates in § 3.81 must be implemented by August 14, 1991.

PART 3—STANDARDS

1. The authority citation for part 3 is revised to read as follows, and the authority citation following all the sections is removed:

Authority: 7 U.S.C. 2131-2156; 7 CFR 2.17, 2.51, and 371.2(d).

2. Subpart A is revised to read as follows:

Subpart A—Specifications for the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats

Facilities and Operating Standards

Sec.

- 3.1 Housing facilities, general.
- 3.2 Indoor housing facilities.
- 3.3 Sheltered housing facilities.
- 3.4 Outdoor housing facilities.
- 3.5 Mobile or traveling housing facilities.
- 3.6 Primary enclosures.

Animal Health and Husbandry Standards

- 3.7 Compatible grouping.
- 3.8 Exercise for dogs.
- 3.9 Feeding.
- 3.10 Watering.
- 3.11 Cleaning, sanitization, housekeeping, and pest control.
- 3.12 Employees.

Transportation Standards

Testimony in opposition to SB 443
Paul G. Decelles
April 24, 1991

Background of Speaker

Obedience Instructor and member Lawrence Jayhawk Kennel Club (Currently First Vice President). Has bred and trained dogs since 1974. PhD, Biology University of Kansas.

1. SB 443 is a flawed bill because it fails to recognize a fundamental distinction between companion animals and livestock. Companion animals are or should be bred for human companionship. This is not an extreme position borne out of emotionalism as some agriculturally oriented people make it out to be but one that recognizes that companion animals ultimately end up in family homes and need to be reared with this in mind. Given the track record of the Agriculture commission in the area of kennel regulation and the lack of understanding of the nature of companion animals, I believe that the Livestock commission is not the appropriate place for kennel licensure and regulation. Perhaps health and environment would be a more appropriate place for this function, given the close association between people and animals implied by the phrase companion animals.

2. The certificate of registration (page 20 line 23-24) is too high set at \$150 and should be lowered back to \$25. The higher amount excessively penalizes those persons who might fall under the designation of Hobby Kennel. Many of these smaller operations are show dog and obedience dog breeders who are actively involved in improving both the temperaments and conformation of their breeds. Most are dedicated to a specific breed or small set of breeds and many provide valuable services to the state as obedience instructors often on a volunteer basis. These kennels are highly visible and not the problem meant to be addressed by kennel regulation. Those non show backyard puppy breeders that are often a problem will not pay the \$150 and escape the law leaving the show breeders holding the bag.

I might point out that the state benefits from these small breeders. Many even though they are small operations, are top show kennels and thus provide a bright spot in our state's otherwise dismal record with kennels. These breeders provide education and training and through their kennel club activities bring in out of state money through dog shows and related activities. For instance on May 11, the Lawrence Jayhawk Kennel Club expects between 1000 and 1300 dogs at its Spring show in Lawrence. Figure that there are 7 (I think) such shows a year in Kansas attended say by 1000 people per show from out of state. If each out of state person spends \$50 in the local economy, there is a positive activity. Penalize the show breeders and this activity shuts down.

3. Likewise why should legitimate Humane Societies have to pay \$300 to be licensed when most need every penny they can get to deal with stray animals and paying for upkeep of rescues from puppy mill raids?

4. There are some good things in this bill. The hobby kennel designation as distinct from large commercial operations is a good idea. Also, the \$2.00 health certificate is a good idea at least on the surface if the money is really to be used for enforcement of kennel regulations. Also, it ties fees more directly with breeding activity. Maybe these fees would generate enough money to eliminate the need for the regressive fee structure proposed in this bill!

The members of area kennel clubs that I've talked with seem to agree that some kind of regulation of breeding is needed to clean the Kansas pet industry up. Small hobby breeders do not directly compete with this industry but are hurt by the bad image out of staters have about Kansas. When I was actively breeding dogs about 10 years ago, even then, I had to overcome mistrust of me and my dogs simply because I lived in Kansas. Now we have people out in California wanting to boycott Kansas beef, not just Kansas puppies. If this spreads we'll all be affected if only indirectly. Thus I hope you take a close look at this bill; get kennel enforcement out of Agriculture and write regulations that do not penalize the small show/hobby breeders who are most concerned about improving their breeds.

Thank you.



Paul G. Decelles
2373 Maverick Lane
Lawrence, Kansas.
913-841-9467

House of Representatives, Agriculture Committee

Testimonial prepared by: Sharon Munk
Board of Directors Member for
American Professional Pet Distributors, Inc.

Opposition to SB #443 as written
Amendments supported by APPDI included.

Mr Chairman, and Members of the Agriculture Committee:

American Professional Pet Distributors Inc., (APPDI) is a national organization. A group intent on improving conscientious care of animals. APPDI encourages responsible pet ownership and promotes an increased public awareness and acceptance of humane and noble animal programs.

On behalf of more than 3,000 Kansans involved in companion animal breeding and brokering operations served by APPDI, we urge you to strengthen the Kansas companion animal program before this special session adjourns.

Legislative action has never been more vital to the many thousands of Kansans involved in the companion animal industry, which contributes \$43 million each year to our state's economy. This \$43 million is FRESH MONEY. FRESH MONEY, being money that wasn't in this state before. Our particular kennel, brings in money from California and many other states. Then we pay our local Co-op for our Farmland Dog Food, the Co-op pays their employees, the employees pay the grocery man, so the grocery man can in turn buy from the local dealers, and this FRESH MONEY, goes on and on. If you act now, you can improve our state's economy, promote good animal care, and ensure the successful implementation of the state's companion animal program.

At this time, I'm sure you are confused as to what this industry is asking of you. Let me explain: In any given issue, in any given industry, you always have two sides. In this particular industry, we have the licensed legal kennels, and you have the unlicensed, illegal kennels. Those of us that run a clean operation, and are willing to open up our doors to inspectors, and then there are those that have something to hide.

You saw the need for this law three years ago. You passed the Companion Animal Act, and Governor Mike Hayden signed it into law. The major problem with this law, since that time has been funding. There are those in the industry that are looking only at today and not tomorrow. Their only concern is, what will this cost me today. They don't realize that without a market for their pups, this will cost them their entire kennels tomorrow.

We, the APPDI kennels in the state of Kansas, want to work with you, the legislatures. We want the Kansas legislature to be our partner in promoting healthy, well-cared for animals which the consumer can purchase with confidence. We urge the Legislature to accomplish these goals this session. This industry will not survive another summer of negative media coverage. We suffered through 1990. We are here today, at this early hour, 300 miles from home, to stress, to you, the importance of the right piece of legislation being passed this session.

I'm here to testify in opposition to parts of SB #443, a bill to fund the companion animal program. This provision would drown the state in paperwork, skyrocket costs for breeders and brokers, and fail to improve animal health. We would like to amend SB #443 to double the ceilings on fees for all in the program, except the research facilities, pounds and shelters. Their ceiling is already \$150. We feel that is adequate. At the current number of licensed or registered facilities this would generate \$141,600. Add to this the \$50,000 general fund money we have been allocated this year, plus for a buffer, charge us 10¢ per puppy on our health sheets with a minimum of 50¢ per sheet. Allow multiple puppies to be listed on each sheet for paper reduction on our part and Dr. Walkers part.

I am one of the members currently sitting on the Companion Animal Advisory Board. This board, the APPDI members, Dr. Walker, the Attorney Generals Office, and the Kansas Federated Humane Society have spent many many hours in the last six months, going over this law. We have advised, revised, compromised, until we have reached the decisions that are acceptable to each group. This would be a model program for other states to follow. This would assure our Kansas puppies a place in the market. Allow Kansas to be the Leader.

I have enclosed with my testimony, a balloon, that Dr. Walker, the Federation of Kansas Humane Society, the Attorney Generals Office, and APPDI all agree on. Don't be swayed by outside forces. This is our industry, this is the very lives of our dogs, let us be heard. We traveled the state of Kansas last June, and gathered thoughts of all breeders. We have been working on this for eleven months, don't let the petitions signed by those in haste, carry the same weight as our year of dedication to the betterment of this industry.

Sharon Munk Hs. AG.
4-24-91
ATTACHMENT 3

TERRY KENNELS

Family owned and operated since 1978



"HOME RAISED PUPS" . . .

From our Family to Yours



THE MUNKS

Paul • Sharon
Dustin • Andy • Jeff
Sara
Terry Kennels — BJ's & Guys

USDA #48-B-081

KS State #005-B

Founders of CONCERNED BREEDERS of KANSAS. Motto: "MAKE KANSAS SHINE." Sharon, along with six other breeders, is working with the Governor, the Attorney General, and the Animal Health Commissioner of the state of Kansas, to assure you of receiving healthy quality companion animals from their state. She is one of the nine members of the Companion Animal Advisory Board, along with veterinarians, former state senators and representatives, lawyers and the humane society.



Mr. Richard D. Kready and "Lady Juliet." Juliet is a Proud Puppy from Terry Kennels.



APPDI — American Professional Pet Distributors, Inc. A group of individuals intent on improving conscientious care of animals through educational seminars with topics such as parasites, canine pediatrics, virus's, and genetics. A strict code of ethics must be followed by members. Sharon is one of the current eleven member board of directors. She is also the state chapter consultant. APPDI encourages responsible pet ownership, and promotes an increased public awareness and acceptance of humane and noble animal programs. Terry Kennels is a certified kennel.



We want to hear from you, and our puppy. Use the attached post card to let us know your puppy's new address. We'd appreciate a picture at Christmas time or the first birthday.



PROPOSED AMENDMENTS TO SENATE BILL #443

- 1.) Double fee ceilings.
- 2.) Ten cents per puppy on health certificates, with a minimum of fifty cents per certificate. Allow multiple puppies to be listed on each certificate for paper reduction.
- 3.) The companion animal advisory committee, called for in SB #431, should be approved and institutionalized. To ensure proper funding, the Legislature should authorize the companion animal advisory committee to assist the commissioner on all major funding and policy decisions.
- 4.)
 - a.) It shall be unlawful for any person to purchase a dog or a cat for the purpose of resale to another from a person required to be licensed under public law 91-579 (7U.S.C. & 2131 et seq.) and/or KSA 4701 et seq. and amendments thereto, if that person is not so licensed.
 - b.) A violation of this section shall be a class A misdemeanor. Any subsequent violation of this section shall be a class E felony.
- 5.) Set up an animal dealers fee fund, keeping it separate from the livestock disease account.
- 6.) The application for a license shall conclusively be deemed to be the consent of the applicant to the right of entry and inspection of the premises sought to be licensed by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present.
- 7.) Maintaining animals for sale is presumed whenever 20 or more animals are maintained by any person.
- 8.) Establishes that a person found not to be in violation of the Animal Dealers Act, does not pay for the cost of impounded animals.
- 9.) Notwithstanding the existence or pursuit of any other remedy when it appears to the commissioner, as head of the licensing agency, that any person is violating any provisions of this act, the commissioner may in that capacity bring an action in a court of competent jurisdiction or other process against such person to enjoin, restrain or prevent such person from continuing operation in violation of this act without regard to whether administrative proceedings have been or may be instituted or whether criminal proceedings may be or have been instituted.
- 10.) Change the title of Livestock Commissioner to Animal Health Commissioner.

- 11.) Whenever the commissioner denies, suspends or revokes a license or certificate of registration under this section, the commissioner or the commissioner's authorized, trained representatives shall seize and impound any animals in the possession, custody or care of the person whose license or certificate of registration is denied, suspended or revoked if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. Except as provided by K.S.A. 21-4311, and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanized, at the discretion of the commissioner.
- 12.) It shall be unlawful for any city or the officials thereof to operate a pound or any corporate entity to operate an animal shelter as a pound, except a licensed veterinarian unless a license for such pound or shelter has been obtained from the commissioner.



ALL BREEDS
AKC PUPPIES

WAGONDA KENNELS

BOX 158
GLEN ELDER, KANSAS 67446



JoAnne Kieffer
Phone (913) 545-3437

To the House Agriculture Committee:

RE: Senate Bill 443

My name is JoAnne Kieffer. I'm from Glen Elder, KS which is 150 miles west of Topeka. I'm the owner of Waconda Kennels. I have also included along with my testimony a copy of my kennel brochure. I had to have a brochure printed to show my customers that even though I was from Kansas, I do not run a "Puppy Mill".

I am on the Kansas Companion Animal Advisory Board for the Animal Health Department. This Board was formed last October. We have worked on the changes that should be made in the Animal Dealers Act and on the rules and regulations that need to be adopted.

I am also on the Board of Directors of APPDI (American Professional Pet Distributors, Inc.). This organization is national but its member breeders and brokers represent many thousands of Kansans who are kennel families.

We must fund the Companion Animal Inspection program!! We must make our Companion Animal Program work. We must continue our 43 million dollar a year industry in our state. We are very important to the state of Kansas and we have to make this program work or we will be boycotted again by the entire country. HSUS, The Humane Society of the United States is very influential. They mean business and we know that if we loose our inspection program -- we loose our industry. We have to have better and better inspections. We have to eliminate the substandard kennels and catteries.

I knew nothing about how the legislature works just one year ago but during this last year I have made many, many trips to Topeka and although I have much to learn yet, I have learned a lot. One thing I have learned is that our industry should have gotten together much earlier in the session with a good bill that would be agreeable with a large portion of our industry.

We thought we had that bill written when we presented Bill 431 to the Senate. The Senate did not work that bill but there are some parts of that bill that are very important to this industry. It is also very important that those parts are added to Senate Bill 443.

First, I feel very strongly that we must have a permanent Advisory Board so I recommend the following:

- 16 *Be it enacted by the Legislature of the State of Kansas:*
 17 New Section 1. (a) There is hereby created the Kansas compan-
 18 ion animal advisory board, consisting of nine members. Seven mem-
 19 bers shall be appointed by the governor as follows:
 20 (1) One member shall be a representative of a Kansas humane
 21 society group;

HS. AG.
4-24-91
ATTACHMENT 4

22 (2) one member shall be an employee of a research facility li-
23 censed under K.S.A. 1990 Supp. 47-1720, and amendments thereto;

24 (3) one member shall be a companion animal breeder, actively
25 engaged in the breeding of companion animals, licensed under the
26 Kansas animal dealer act and shall be selected from a list of three
27 names presented to the governor by the American professional pet
28 distributors, inc.;

29 (4) one member shall be a companion animal broker, actively
30 engaged in buying and selling companion animals, licensed under
31 the Kansas animal dealer act and shall be selected from a list of
32 three names presented to the governor by the American professional
33 pet distributors, inc.;

34 (5) one member shall be an animal retail shop owner and shall
35 be selected from a list of three names presented to the governor by
36 the pet industry joint advisory council;

40 (b) one member shall be a licensed veterinarian and shall be
41 selected from a list of three names presented to the governor by
42 the Kansas veterinary medical association; and

43 (7) one member shall be a private citizen with no link to the
1 industry.

2 Two members shall be legislators, one member appointed by the
3 speaker of the house of representatives from the house of represen-
4 tatives and one member appointed by the president of the senate
5 from the senate. The legislative members shall not be from the same
6 political party.

7 (b) Of the members first appointed to the board, the governor
8 shall designate three whose terms shall expire June 30, 1992; three
9 whose terms shall expire June 30, 1993; and three whose terms shall
10 expire June 30, 1994. After the expiration of such terms, each mem-
11 ber shall be appointed for a term of three years and until a successor
12 is appointed and qualified.

13 (c) A vacancy on the board of a member appointed by the gov-
14 ernor shall be filled for the unexpired term by appointment by the
15 governor.

16 (d) The board shall meet at least once every calendar quarter
17 regularly or at such other times as the chairperson or a majority of
18 the board members determine. A majority of the members shall
19 constitute a quorum for conducting board business.

20 (e) The members of the board shall annually elect a chairperson.

21 (f) Members of the board attending meetings of the board or a
22 subcommittee meeting thereof approved by the board, shall be paid
23 compensation, subsistence allowances, mileage and other expenses
24 as provided in K.S.A. 75-3223, and amendments thereto.

- 25 (g) The board shall have the following duties, authorities and
26 powers:
27 (1) To advise the Kansas livestock commissioner on hiring a di-
28 rector to implement the Kansas animal dealer act;
29 (2) to review the status of the Kansas animal dealer act;
30 (3) to make recommendations on changes to the Kansas animal
31 dealer act; and
32 (4) to make recommendations concerning the rules and regula-
33 tions for the Kansas animal dealer act.

Another portion of Bill 431 creates the Animal Dealers fee fund. This separates the Companion Animal monies from the livestock monies. I have also enclosed the portion with that part, which should be an amendment to K.S.A. 47-1721.

- 28 (e) The commissioner shall remit all moneys received by or for
29 the commissioner under this section to the state treasurer at least
30 monthly. Upon receipt of each such remittance, the state treasurer
31 shall deposit the entire amount in the state treasury and shall credit
32 it to the animal ~~disease control fund~~ *dealers fee fund, which is*
33 *hereby created in the state treasury. Moneys in the animal dealers*
34 *fee fund may be expended only to administer and enforce the Kansas*
35 *animal dealers act. All expenditures from the animal dealers fee fund*
36 *shall be made in accordance with appropriation acts upon warrants*
37 *of the director of accounts and reports issued pursuant to vouchers*
38 *approved by the Kansas livestock commissioner or the commissioner's*
39 *designee.*

Additionally we need to add a "presumptive evidence" section. This would greatly improve enforcement of the law. Currently we must prove sales. The following is what we recommend as an amendment to K.S.A. 47-1701:

- 26 (~~w~~) (x) "Sale," "sell" and "sold" include transfers by sale or
27 exchange. *Maintaining animals for sale is presumed whenever 20 or*
28 *more animals are maintained by any person.*

A section needs to be added that establishes that a person found not in violation of the Animal Dealers Act does not pay for the cost of seizing and impounding of the animals. This also makes a few changes needed in Euthanasia. This would be an amendment to K.S.A. 47-1706.

- 16 (c) Whenever the commissioner denies, suspends or revokes a
17 license ~~or certificate of registration~~ under this section, the com-
18 missioner *or the commissioner's authorized, trained representatives*
19 shall seize and impound any animals in the possession, custody or

20 care of the person whose license or certificate of registration is
21 denied, suspended or revoked if there are reasonable grounds to
22 believe that the animals' health, safety or welfare is endangered.
23 Except as provided by K.S.A. 21-4311, and amendments thereto,
24 such animals may be returned to the person owning them if there
25 is satisfactory evidence that the animals will receive adequate care
26 by that person or such animals may be sold, placed or euthanized,
27 at the discretion of the commissioner. *Euthanasia may be authorized*
28 *by the commissioner if the animal is diseased, unsocialized or dis-*
29 *abled beyond recovery for any useful purpose.* Costs of care of and
30 services for such animals while seized and impounded shall be paid
31 by the person from whom the animals were seized and impounded,
if the license of such person is denied, suspended or
revoked; otherwise such costs shall be paid by the
commissioner.

33 *Such funds shall be*
34 *paid to the commissioner for reimbursement of care and services*
provided during seizure and impoundment.

A provision needs to be added for an injunction to enjoin a person from oper-
ating an unlicensed facility. This would need to be an ammendment to K.S.A.
47-1709.

7 (c) The commissioner or the commissioner's authorized repre-
8 sentative, *trained representatives* shall make inspections of the
9 premises of a ~~person~~ licensee required to be licensed or registered
10 under K.S.A. 47-1701 et seq., and amendments thereto, upon a
11 determination by the commissioner that there are reasonable grounds
12 to believe that the ~~person~~ licensee is violating the provisions of
13 K.S.A 47-1701 et seq., and amendments thereto, or rules and reg-
14 ulations adopted thereunder or that there are grounds for suspension
15 or revocation of such ~~person's licensee's~~ license or certificate of
16 registration. The commissioner has the authority to obtain
an injunction to enjoin that person or licensee from oper-
ating a permises that is required to be licensed under
K.S.A. 47-1701 et seq. and amendments thereto, but has
not obtained such license.

A "Statutory Consent" ammendment should be added as follows:

23 Sec. 9. K.S.A. 1990 Supp. 47-1709 is hereby amended to read
24 as follows: 47-1709. (a) The commissioner or the commissioner's au-
25 thorized representative, *trained representatives* shall make an in-
26 spection of the premises for which an application for an original

27 license is made under K.S.A. 47-1701 et seq., and amendments
28 thereto, before issuance of such license. *The application for a license*
29 *shall conclusively be deemed to be the consent of the applicant to*
30 *the right of entry and inspection of the premises sought to be licensed*
31 *by the commissioner or the commissioner's authorized, trained rep-*
32 *resentatives at reasonable times with the owner or owner's repre-*
33 *sentative present. Refusal of such entry and inspection shall be*
34 *grounds for denial of the license. Notice need not be given to any*
35 *person prior to inspection.*

We should broaden the scope of licensing shelters and pounds as follows:

15 Sec. 6. K.S.A. 1990 Supp. 47-1704 is hereby amended to read
16 as follows: 47-1704. ~~Except as otherwise provided by K.S.A. 1988~~
17 ~~Supp. 47-1722,~~ It shall be unlawful for any city of the first class
18 or the officials thereof to operate a pound or any corporate entity
19 to operate an animal shelter as a pound, *except a licensed veteri-*
20 *narian* unless a license for such pound or shelter has been obtained
21 from the commissioner. Application for such license shall be made
22 on a form provided by the commissioner. The license period shall
23 be for the ~~registration~~ *license* year ending on June 30 following the
24 issuance date.

Add New Section concerning not allowing any person to purchase for resale from
a person who is required to be licensed but is not, to read as follows:

- (a) It shall be unlawful for any person to purchase a dog
or a cat for the purpose of resale to another from a person
required to be licensed under public law 91-579 (7 U.S.C. &
2131 et seq.) and/or K.S.A. 4701 et seq. and amendments
thereto, if that person is not so licensed.
- (b) A violation of this section shall be a class A mis-
demeanor. Any subsequent violation of this section shall
be a class E felony.

We also recommend changing the wording in the New Section 26 of Bill 443 con-
cerning health certificates to read as follows:

The registration fee should be at a fee of 10¢ per animal
with a maximum of 20 animals per certificate with a minimum
fee of 50¢ per certificate.

This should provide an additional \$8 to \$10,000 annually.

As a member, representative and spokesperson for the American Professional Pet Distributors, Inc., we are **completely and entirely** in favor of a **double** ceiling on the **fees** for licensing as proposed in Bill 443. There are going to be people here today who oppose double licensing. Many of those people do not understand. We have worked hard as APPDI and the Concerned Breeders of Kansas to help inform breeders of the necessary things to keep our industry. But, those people have not worked with the Animal Health Department. They do **not** realize that it takes a lot of money to operate an inspection program. Some people still do not even understand that we must **keep** our **Kansas inspection program** or we will be **out of business**. We must work hard at eliminating any substandard kennels that are still left in our state and we can not do that without the funding for the Animal Dealers Act.

I propose that someone here on your committee right now make the motion to accept these ammendments for Bill # 443.

Thank you. I will be happy to answer questions.

Senate Bill 443 Hearing
Testimony by
Opal Featherston
APPDI National Board Member
Kansas Breeder
April 24, 1991

Mr. Chairman and members of the Agriculture Committee:

I am Opal Featherston from Whiting, Kansas and am a USDA and a Kansas Licensed breeder of companion animals. I am a national board member of APPDI (American Professional Pet Distributors, Inc.) and in behalf of the thousands of Kansas people who are served by APPDI I'd like to affirm our continued commitment to the humane care of companion animals and our intense desire to improve the public image of our viable Kansas industry which has become so blemished by a few who have not been willing to operate as responsible business people. All of us within APPDI want "Kansas to Shine" by ridding our state of the substandard kennels.

This power we do not have, however, with the support of our legislators we all can successfully implement a good state companion program which can have some teeth in it to take care of the irresponsible breeder.

First S.B. 443 needs to be amended--we urge the legislature to approve one health certificate for up to 20 companion animals at 10¢ per animal, provided the animals are individually checked by a veterinarian, rather than the extreme \$2 fee per animal.

Second--we urge the Legislature to enact S.B. 431 in full, which would improve our companion animal program. The advisory committee, a group of individuals with expertise in the humane care of companion animals, would assist the commissioner on all major decisions.

We especially urge the Legislature to enact criminal penalties for brokers ^{who} buy companion animals from illegal breeders. What other industry allows part of its chain to operate illegally, yet in the companion animal industry we allow the illegal breeders to continue operating by openingly providing an outlet for their companion animals.

Hs. Ag.
4-24-91
ATTACHMENT 5

During this hectic time of the session we as APPDI breeders and brokers urge your support in assisting us in passing good legislation which will ensure the continuance of a reputable Kansas industry. If we do not enact a good workable program---written by Kansas committed to humane care of companion animals, then some out of state forces will take charge of our industry and Kansas will loose its over 43 million dollar industry.

Help us "Make Kansas Shime"! Thanks!!

Lambriar Kennels
Mahaska, Ks. 66955

April 24, 1991

Re: Testimony against portions of SB443
House Ag. Committee - Topeka, Ks.

Ladies and gentlemen:

My name is Douglas Lambert and I am Vice-president of Lambriar Inc., of Mahaska, Kansas. Lambriar sells an average of 28,000 puppies and kittens per year. We have approximately 2000 active breeders/kennels that we deal with. These are either USDA licensed or do not require licensing as they have under (3) breeding females in their program. Lambriar has been in business since 1969 and presently employs 43 employees and one full-time staff veterinarian.

I am also on the national board of directors for the APPDI which stands for American Professional Pet Distributors, Inc.

We have actively supported a CREDIBLE Kansas bill even prior to Lambriar being present when Gov. Hayden signed it into law.

First of all, we support raising the licensing fees of Kansas kennels from \$75 to \$150.

PROPOSED AMENDMENTS

We support additional revenues generated from health certificate fees. The proposed \$2 per certificate is out of the question as nobody could afford this cost but if it were amended to a 10 cent charge per animal, you would generate thousands of dollars in additional funding not presently being received.

Section 19: The pet industry of Kansas has been in a downhill slide for the last two years, the breeders can not afford the suggested \$8 registry fee per breeding animal. This would severely jeopardize the pet breeding industry in Kansas. I would propose this area is left undisturbed.

To eliminate the "illegal puppy mill" operators you must delete their market. Presently there is no federal or state penalty for a dealer in relationship to buying from an illegal kennel. If we were to implement penalties to in-state or out-of state dealers who provide the "puppy mill" with a market, we would quickly see a decline in the substandard operations. Therefore, I would like to see the suggested misdemeanor/felony amendment enacted.

We also suggest the companion animal advisory committee, called for in SB431, should be approved and institutionalized and that the legislature should authorize the companion animal board to assist on all major funding and policy decisions.

Lambriars annual fees under this structure should exceed \$3000.

I will now entertain any question you may have.

HS. Ag.
4-24-91
ATTACHMENT 6

SENATE BILL 443
House Agricultural Committee Hearing
April 24, 1991

Testimony by Ann Stacer

AGAINST SB443

on behalf of:

German Shepherd Dog Club of America
Lawrence Jayhawk Kennel Club
Mo-Kan Schutzhund Club
Northeast Kansas Schutzhund Assoc.
North East Kansas Dog Training Club
Topeka German Shepherd Dog Club
United Schutzhund Clubs of America
Companion Animal Club of Kansas

Hs. Ag.
4-24-91
ATTACHMENT 7

Ladies & Gentlemen:

I appreciate that hours of work have been put into several bills pertaining to the clean-up of "puppy-mills" in Kansas, but of the ones I have seen so far it seems that no input has been sought from the show or hobby breeder, although they are expected to subscribe to an increase of 600% in their registration fees. At the Senate Agricultural Committee hearings a comment was made that legislators are looking for direction, so I come today to offer the hobby breeder's point of view.

- I. We are AGAINST placing this bill in the hands of the Department of Agriculture. This agency has done a poor job of maintaining and enforcing the current laws. Dr. Walker has commented that the Animal Health Dept. is the best place for the program as they have the trained veterinarians ... nowhere in the bill is there a call for diagnosis to be made, just judgements as to sanitation and nutrition.

We would like to see this program placed in the Health Dept., which has in place a good history of inspection and enforcement. We are well aware that funds are tight, but we are also aware that funds can be (and are) made available where the Legislature wishes.

- II. We would like to see a more equitable fee structure. Show-dog breeders may have 1 - 6 dogs that they may breed maybe 3 or 4 times in the dog's lifetime, as opposed to commercial breeders who breed 2 litters per dog per year. Although we are not part of the problem, we are willing to contribute to help fund a solution to the puppy mill problem, but at an equitable rate. ~~Many of us are opposed to the USDA exemption, as USDA does not seem to have controlled this problem in the past, and we dont see it doing so in the future.~~

I cannot imagine how the \$2 per health certificate can possibly be enforced, especially among hobby breeders. I would suggest that IN LIEU OF LICENSE, REGISTRATION AND HEALTH CERTIFICATE FEES, AN ANNUAL FEE PER FEMALE DOG BE CHARGED (\$10 for hobby breeders, \$15 for commercial breeders ?) This could be enforced by stating it in the application, and by spot-check inspections. This would alleviate a great deal of administrative paperwork, and I believe a feasibility study would show this would sustain the program adequately.

In conclusion, I would urge you not to get a "stick-it" attitude toward the Californians who are pressuring for a change in our laws. As an individual who CHOSE to be a Kansan, I am proud of the sense of values and common-sense of the average Kansan. I trust that once you have all views presented to you, you will make an intelligent, informed decision.

Respectfully submitted,

Ann Stacer



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

Testimony on Behalf of
Attorney General Robert T. Stephan
Presented by
Camille Nohe
Assistant Attorney General

House Agriculture Committee
Re: Senate Bill No. 443
April 24, 1991

On behalf of Attorney General Stephan I am here to testify generally against Senate Bill No. 443 as it pertains to the animal dealer act.

Meaningful changes to the animal dealers act have been proposed this session; however, none of those modifications are included within Senate Bill No. 443.

As written this bill makes three changes: First, it brings boarding kennels within regulatory authority. While this expanded licensing authority may be warranted, a demonstrated need to regulate boarding kennels has not be shown. Second, it provides for a \$2.00 per animal health certificate registration fee. While this measure would undoubtedly raise money for the animal health department, I understand it would also work a severe financial hardship on the larger legitimate animal

Hs. Ag.
4-24-91
ATTACHMENT 8

dealers and pet shops. Assuming the goal of the act is to eliminate sub-standard animal dealer premises, this type of oppressive financial measure would merely burden those dealers already complying with the law. Third, it raises premises licensing and registration fees. While licensing fee increases are essential, classifications must be fair. It appears inherently unfair to charge the same fee for inspected, licensed premises as for those merely registered, i.e. hobby kennels.

What Senate Bill No. 443 does not address is much more significant than what it does. It does not incorporate any of the meaningful substantive or procedural changes proposed by various constituencies seeking a toughened law for the benefit of the industry regulated, for the protection of helpless animals, and for strengthened and fair enforcement.

Kansas has the opportunity, now, to improve and clarify the animal dealers act in response to considered and thoughtful reasoning by those of us who have worked with this law intensely during the past year. Ours - the voices from responsible Kansas humane shelters, responsible breeders and brokers, the animal health department and the Attorney General's office - are the voices to be heeded. The strident sounds of extremists, whatever their source, must be ignored.

On behalf of the Attorney General, I urge this committee to act in a meaningful and responsible manner by amending Senate Bill No. 443 to include the changes put forth by the voices of those who care for the industry, the animals and good government.

TO: HOUSE AGRICULTURE COMMITTEE
FROM: PINKY LEWIS
RE: SENATE BILL 443
DATE 4-24-91

Mr. Chairman and Members of the Committee:

I am Pinky Lewis, Kansas kennel owner and operator, Kansas license number 476A, federal USDA license number 48-A-733 from Independence, Kansas. I am here to testify in opposition to Bill #443.

I am extremely concerned with the new sections dealing with the Companion Animal Act. These new sections can and will affect us all. One of these issues incorporates a two dollar, charge for each puppy sold. This would be a State fee, for funding the Companional Animal Act. Bluntly speaking, if this is passed, as is, there will be no need for funding because this will very plainly put the most of us out of business. We all realize the need for funding, and those involved in the industry also realize the necessity to moderate this, to read ten cents per puppy. This we can afford to pay without being put out of business.

The other new section that greatly concerns us is the increase in State licensing fee, from \$75 to \$150, for the most of us. I must admit, I for one do not like it, but I will accept it due to the desperate need for funding. But if both fees are accepted as they are, we can not possibly afford to stay in business. Rest assured the H.S.U.S. would have no need to boycott this industry again, because you would have already done their job for them and stopped the Companion Animal industry in the State of Kansas. For this I'm sure you would receive their thanks.

H.S. Ag.
4-24-91
ATTACHMENT 9

TO: HOUSE AGRICULTURE COMMITTEE
FROM: PINKY LEWIS
RE: SENATE BILL 443
DATE: 4-24-91
PAGE 2

A \$43 million industry in the state of Kansas would no longer exist. Can Kansas as a State afford to lose this industry? I don't think so. The economy is in a bad enough state the way it is, without that. It would be devastating to the State of Kansas.

Senate Bill #431 was a bill that we all supported, unfortunately, it was dropped by the Senators that were hearing it. But, there **are** some very good issues from that bill, that we would like to see included in this bill. One of those issues deals with animal brokers who buy from unlicensed, illegal breeders. We would like to see a penalty imposed on those brokers who buy illegally. Thus, costing the honest breeders of this state our livelihood.

The second issue we would like to see included in this Bill to help further our cause, would be to initiate an advisory committee, set up with members of the industry, as explained in Bill #431.

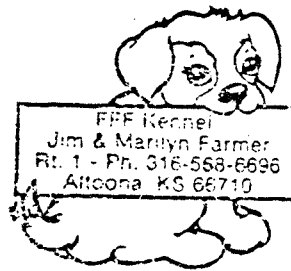
A year ago seven women started a campaign to strengthen our Companion Animal Act, unfortunately, we have not gotten the help and support from our State legislatures that we had hoped for. I have been told, by a State Senator, that everyone is "Tired of the Controversy", that I can understand. But we are the ones to suffer the consequences. I, for one, am proud of my kennel and I would like for my State to stand behind my chosen industry. To show their pride in us by supporting our industry and helping us to make our Companion Animal Act a law we can all show pride in. There are no longer just seven women, but hundreds of supporters across the state of Kansas. We are showing our pride in our industry and our state governing officials by trusting in you to help us now.

HOUSE OF REPRESENTATIVES, AGRICULTURE COMMITTEE
TESTIMONY PREPARED BY RAMONA AMLONG
PRESIDENT OF NORTHWEST KANSAS AMERICAN PROFES-
SIONAL PET DISTRIBUTORS INC.
OPPOSITION TO SB #443 AS WRITTEN

My name is Ramona Amlong. I live in Dresden Kansas which is between Hoxie and Oberlin. I came 300 miles to present this testimony to you because I really like my chosen profession and am in jeopardy of loosing it. I have 50 dogs, I am a very conscientious breeder, but this is also a very needed second income. I am President of our Northwest Kansas state chapter of APPDI. I speak not only for myself, I speak for my chapter as well. We need positive legislation passed this year. The Humane Society of the United States is watching Kansas very closely. They would welcome the opportunity to unload another batch of bad publicity on us. I want Kansas to be the model for other states to pattern themselves after. Only you can make that happen.

Funding has been the molasses the Companion Animal Act has been bogged down in for the last three years. We in the industry know the funding answers have to come from us. We ask you to amend SB #443 to read 10¢ per animal. You could also double our fee ceiling to \$150.00 Between the two adjustments we would have in excess of the \$180,000 needed to run this program. I would also like to propose an amendment to SB #443 making it unlawful for any person to buy an animal from an illegal breeder or operation. A violation of this would be a class A misdemeanor. Any subsequent violation of this would be a class E felony. We also believe the companion animal advisory committee, called for in SB #431 should be approved and institutionalized. To ensure proper funding, the legislature should authorize the companion animal advisory committee to assist the commissioner on all major funding and policy decisions.

Hs. Ag.
4-24-91
ATTACHMENT 10



TO: House Agriculture Committee
FROM: Marilyn S. Farmer
RE: Senate Bill #443
DATE: April 23, 1991

Mr. Chairman and members of the Agriculture Committee:

My name is Marilyn Farmer, I am a kennel owner and operator from Altoona, Kansas. I hold Kansas license # 270A and USDA license # 48-A-848. I am testifying in opposition to Senate Bill # 443. I am particularly concerned over New Section 26 pertaining to the \$2.00 health certificate per animal sold. This is devastating! Economically the fee will put many kennels out of business! If this is your intention, then you will probably succeed!

I suggest amending SB443 to read .10¢ additional for a health certificate per puppy sold. This will help fund the Companion Animal Act and it will also keep approximately 3,000 Kansans in business and off the welfare rolls. With the \$2.00 per animal health certificate enacted you will see the fall of a \$43 million dollar industry in Kansas. H.S.U.S. will not have to figure out a way to boycott us because the Kansas legislature will have already put us out of business! Please strike out the \$2.00 per animal health certificate fee and amend it to read .10¢ per animal.

In Section 29 (1) doubling our fees from \$75 to \$150 can be tolerated in order to raise funds for the Companion Animal Act. In Section (3) it is a must to raise the certificate of registration fee from \$25 to \$150. Make these people pay this fee, be inspected and make them clean up the industry also!

I am in support of the following proposed amendment to SB443: It shall be unlawful for any person to purchase a dog or cat for the purpose of resale to another from a person required to be licensed, but is not. A violation of this section shall be a Class A misdemeanor. Any subsequent violation of this section shall be a Class E felony.

The industry is tired of supporting the illegal kennels! The best way to bring the illegal kennels into compliance is to take their market away from them. By making it illegal for the broker to support them, and with stiff penalties enacted if they do, these people will work to come into compliance with the rest of us, or discontinue their operation.

I also believe that the Companion Animal Advisory Commission called for in SB431 should be approved. The legislature should authorize the Companion Animal Advisory Committee to assist the commissioner on all major policy decisions.

Please consider my testimony. We must have the Companion Animal Act if we are to survive as an industry. We would appreciate fair and equitable treatment in the aforementioned matters.

Sincerely,

Marilyn S. Farmer

Marilyn S. Farmer

Hs. Ag.
4-24-91
ATTACHMENT 11

THE KANSAS FEDERATION OF HUMANE SOCIETIES, INC.

ESTABLISHED 1952

April 24, 1991

TO: Representative Hamm and Committee Members
House Agricultural Committee

My name is Marcia Gitelman. I am president of the Kansas Federation of Humane Societies and Assistant Executive Director of the Helping Hands Humane Society. The KFHS is a statewide animal welfare organization representing ten humane societies with a combined membership of approximately 5,000 people. In addition I have a B.S. degree in Agriculture and have worked for responsible dog breeders in the past.

I am here before you today regarding ammendments made to SB 443 that affect the Companion Animal Program. There are several points that I would like to ask you to consider:

1. New Section 27 allows for kennels already regulated by the USDA to again be exempt from state inspection. These people have already had three state license free years and it's time that they be inspected as well. Time and again it has been shown that USDA inspections alone are not enough - this is why the Companion Animal Act was enacted in the first place. Also, since funding for this program has become so critical it only makes sense to begin collecting licensing fees from these kennels as well.

2. Section 29 would double licensing fees for animal shelters and municipal pounds. We object to this because these facilities are not the problem and are not the ones who have brought the bad media reports upon this state. In addition, humane societies are non profit and should not be made to pay the same fees as businesses.

However, since funding is critical I would like to ask that you instead make it necessary for all municipal pounds and humane societies to be licensed, not just those in cities of the first class. This way, even with licensing fees remaining at \$150.00 the animal health department would gain additional revenue. We also feel that it is important that these facilities be regulated because presently there is no regulating agency assuring that they follow humane standards. On a similar note we support the licensing of boarding

HS. Ag.
4-24-91
ATTACHMENT 12

and training kennels as well. These facilities should be inspected and would provide additional revenue for the state. It should not be difficult at all for the state inspectors to perform inspections at these places, as they are service orientated businesses and are readily accessible during business hours.

3. We also support suggested additions that would strengthen the Companion Animal Act. These include:

- a). The addition of a "presumptive evidence" section to improve enforcement.
- b). To make it unlawful to do business with unlicensed dealers.
- c). Provisions for injunctions to enjoin people from operating unlicensed facilities.
- d). That when a person has or has applied for a license they are giving statutory consent for their premises to be inspected.

Thank you for considering these proposed changes.

Respectfully submitted,

Marcia Gitelman

Marcia Gitelman
2625 NW Rochester Road
Topeka, KS 66617
(913)233-7325

STATE OF KANSAS



ANIMAL HEALTH DEPARTMENT

(913) 296-2326

TESTIMONY

PRESENTED BY

R. DANIEL WALKER, D.V.M.
KANSAS LIVESTOCK COMMISSIONER

HOUSE COMMITTEE ON AGRICULTURE
RE: SENATE BILL 443

APRIL 24, 1991

Representative Hamm and members of the House Committee on Agriculture:

Thank you for allowing me this opportunity to testify before you today concerning Senate Bill 443.

Senate Bill 443 as it is presented to you from the Senate side addresses necessary points, as they pertain to the Animal Health Department. The most critical of those is to raise licensing ceilings for all fee funded programs implemented by the Animal Health Department. Now funding mechanisms, those having to do with the registration of health certificates, need additional work from this committee but offer alternative sources of revenue to offset agency costs. Concerning the commercial pet industry, a fee of 10¢ per puppy allowing 10 puppies per certificate with a minimum registration fee of 50¢ per certificate would be more appropriate.

Senate Bill 443 also creates the Animal Dealer's Fee Fund separate and apart from the Livestock Disease Control Fund.

Senate Bill 443 authorizes the commissioner to promulgate rules regulating the importation and sales of exotic animals into Kansas. Diseases introduced by animals such as llamas, deer and elk are an ever increasing threat to man and domestic animals.

Senate Bill 443 falls short in areas that must be addressed this session.

The industry to be regulated, as represented by A.P.P.D.I. has come to me repeatedly since I have been in Topeka and have told me of the great damage that their 43 million dollar industry has received from adverse and often times unfounded media coverage generated from outside of Kansas. Coverage somehow intent on trying to turn fiction into fact by making Puppy Mills exclusive to Kansas. They are a social problem existing in much of the United States.

Responsible Kansans that represent the legitimate pet producing industry in this state tell me of the damage and then tell me how they must be effectively regulated to save their industry and their livelihood. They know that a few bad apples have spoiled the barrel for them.

The amendments and corrections I am requesting to Senate Bill 443 have their origins from many sources, all concerned with creating a workable regulatory program. I have briefly explained these and have attached them to the written testimony you just received.

These requested changes and additions to the present Law will create a model program for other states to look up to; a Law able to stand before critics; a Law that Kansans can be proud of because it will ensure that puppies and kittens produced in this state for consumers across the nation will be raised in clean, safe and healthy kennels with proper veterinary care.

If you enact into Law the amendments requested, I promise you a cost effective regulatory program administered in the manner you expect.

Now is not the time to react to outside pressures. Now is the time to act upon the requests brought to you by those who have studied this program. Those good Kansans, your constituents whose judgment you trust.

AMENDMENTS CONCERNING "LIVESTOCK" CONTAINED IN SB 443.

I. New Sec. I) Registration of original veterinary certificates of inspection (health certificates) at a fee not to exceed \$5.00.

This is a modification of the present health certificate system that creates a "user fee" source of revenues to offset the cost of 2 FTE's processing and handling such documents.

2) Provide official calfhood vaccination tags at a cost not to exceed 25¢. These tags are used to individually identify heifers vaccinated against brucellosis. They currently cost the Animal Health Department .05¢ per tag and are supplied to private practitioners at that cost. The Animal Health Department currently has 1 FTE recording these vaccination records. Again, this will help offset her salary and may provide some additional funds for the brucellosis eradication program.

II. New Sec. 2 and 3) - Exotic Animal Regulation. Authorize the commissioner to regulate the sales of and importation into Kansas of exotic animals.

Exotic animals, i.e. deer, elk, llamas, etc. pose at present a clear danger to man and domestic animals as carriers of contagious diseases such as brucellosis and tuberculosis. Kansas must follow the lead of many other states to impose the proper restrictions and regulations as they apply to these animals.

III. Livestock User Fees) - Fees collected for the livestock disease programs, the brand program, feed lot licenses and other related services reached their statutory ceiling in 1985. Senate bill 443 raises that ceiling 50% across the board.

THE ANIMAL DEALERS ACT

Statutory changes included in SB 443 and requested amendments:

Registration of Health Certificates.

I. New Section 26) - Should be amended to read "The registration fee shall be at a fee of 10¢ per animal per certificate with a minimum fee of 50¢ per certificate. This funding is calculated to provide 8 to \$10,000 annually.

II. New Sec. 27) "Kennel Operators" would include facilities and veterinary clinics providing boarding services.

This new category should not be considered at this time. The Animal Health Department, with no Companion Animal Program director and only three inspectors, has had great difficulty fullfilling its' statutory duties with the program as it stands.

To create a new licensing category would be unwise without caregully planning for staffing requirements. In addition, there has been no demonstrated need to regulate boarding kennels in Kansas.

III. License Fees) Senate Bill 443 increases the licensing ceiling as follows:

1.) Premises of a person licensed by the U.S.D.A. from \$75 to \$150.

2.) Premises of a person not licensed by the U.S.D.A. from \$150 to \$300.

I fully support these increases as major source of funding to implement this program at this time.

This increase will provide up to \$65,000 additional funding if present license numbers remain stable.

IV. Registration Fees - The increased "Hobby Breeder" registration fee as proposed in SB 443 would be six fold. By law, they are not inspected but are only listed with the Animal Health Department. Those who raise dogs or cats as a hobby would be subsidizing the program to regulate those engaged in this business.

I, therefore request that the ceiling on the registration fee for a hobby breeder be set at \$50.00.

ANIMAL DEALERS FEE FUND

Currently the Companion Animal Program is a sub-account of the Livestock Disease Control Fund. Senate Bill 443 creates the Animal dealers Fee Fund within the Animal Health Department. I fully support this amendment.

ADDITIONAL LEGISLATIVE CHANGES REQUESTED

- 1.) Add a "presumptive evidence" section which provides that the holding of over 20 dogs or cats is presumptive evidence that one is an animal dealer. This would greatly improve enforcement. Currently we must prove sales.
- 2.) Add a section making it unlawful for a licensed dealer to do business with person who should be licensed but is not.
- 3.) Add a section establishing that a person found not to be in violation of the Animal dealers Act does not pay for the cost of seizing and impounding animals.

4.) Establish a nine member advisory board to the Commissioner.

5.) Change the title "Livestock Commissioner" to "Animal Health Commissioner". This would correlate with the Animal Health Board which the Commissioner serves and would be a more appropriate and contemporary title.

6.) Add a provision for injunctions to enjoin a person from operating an unlicensed facility.

7.) Establish indications for authorizing euthanasia. Animals that are impounded may be euthanized when it is determined by the Commissioner that the animal is "diseased, unsocialized or disabled beyond recovery for any useful purpose."

Euthanasia is currently authorized but no guidelines are in place.

8.) Change "cost of care" to "costs of care and services for such animals while seized and impounded."

This simply clarifies the existing law pertaining to the process of seizure and impoundment.

9.) Add "statutory consent" to inspect licensed premises and premises sought to be licensed.

The Animal Health Department currently has the "right of inspection" based on case law and Attorney General of Kansas opinion.

This would communicate to a person that has or has applied for a license that in doing so they are giving their consent to inspect, at reasonable times with the owner or owner's

representative being present.

10.) Broaden the scope of the licensing of shelters and pounds operated by "cities of the first class" only to include shelters and pounds operated by "any city" but, exempting those operated by a licensed veterinarian.

The Kansas Federation of Humane Societies has shown need for this inclusion and the Commissioner fully supports this.

I would support retaining the current license fee of \$150 for pounds and shelters.