

Approved February 20, 1991
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Jim Allen at
Chairperson

10:07 a.m. ~~XXX~~ on February 19, 1991 in room 423-S of the Capitol.

All members were present except: Senator Harder (excused)
Senator McClure (excused)
Senator Sallee, (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: Dr. Stanley Grant, Acting Secretary, State
Department of Health and Environment
David Traster, Assistant Secretary and General
Counsel, State Department of Health and
Environment
Camille Nohe, Assistant Attorney General,
Attorney General's Office
Dr. Russell Frey, President, Veterinary
Association, Professor at Kansas State Univ.
Mike Beam, Kansas Livestock Association
Warren Parker, Kansas Farm Bureau
Kathy McKee, President, Kansas Companion Animal
Association, Olathe, Kansas
Marcia Gitelman, Assistant Executive Director,
Helping Hands Humane Society

Senator Allen called the Committee to order and attention to SB 78.
The Chairman called on staff to comment on the bill.

Staff explained that SB 78 proposes the transfer of the enforcement
of the companion animal statutes to the Department of Health and Environment.
Within the statutes where the word Commissioner is used that word would
be changed to secretary. Deletions for lines not applicable were noted
along with new sections transferring such things as personnel, records,
equipment and monies now pertaining to the enforcement of the companion
animal act from the Animal Health Department to the Department of Health
and Environment.

The Chairman stated that he had requested this proposed change in
order for the companion animal act to get a new start. The Chairman ex-
plained that no one was being faulted for the way the companion animal
act has been enforced in the past; that proposals have suggested the
enforcement of the act be moved to the Attorney General's office or to
a department that would be newly created and that neither of those pro-
posed changes seemed the right move to make.

The Chairman called on the following to testify on SB 78.

Dr. Stanley Grant gave the Committee copies of his comments along
with a balloon draft of proposed amendments for the proposed SB 78
(attachment 1). Dr. Grant explained that the Department of Health and
Environment did not request the transfer of duties to their department
and requested full funding if transferred along with additional personnel.
Dr. Grant suggested that maybe a 1% tax could be added to pet foods and
accessories to cover part of the costs for the companion animal act. Dr.
Grant called on David Traster to go over the balloon draft for SB 78 as
shown in the second part of attachment 1.

Mr. Traster reviewed the suggested changes as marked in the draft
provided. Mr. Traster explained that a change was requested in order to
legally have access to premises for inspection purposes when an owner

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture

room 423-S, Statehouse, at 10:07 a.m./~~p.m.~~ on February 19, 1991

will not grant permission. Mr. Traster answered that animals are not seized and sold without due process through the court system.

Ms. Nohe provided the Committee with copies and explained suggested changes (attachment 2) in order to be able to provide stronger enforcement and changes that would allow that confiscated animals could be placed as well as sold or disposed of by euthanasia. Changes also suggested would help with costs incurred when animals are impounded that are not now covered along with provisions that would provide for reimbursement to humane shelters that care for confiscated animals. Another request would give statutory authority to inspect facilities which would help with inspections of hobby kennels that may well be a dealer kennel by the numbers of animals involved and with inspections needed to investigate complaints received and also the authority to apply to a district court for a stop injunction on a business.

Ms. Nohe answered a Committee question that reasonable time be used as a time when inspections might occur for a dealer because that is the term used in other statutes and that it was hard to define hours but that inspectors do try to make inspections during the regular day time working hours.

Dr. Frey gave the Committee copies of his testimony (attachment 3) and expressed support for SB 78 and requested that adequate funding is a must along with needed guidelines and recommended that a veterinarian be appointed to oversee the program.

Mike Beam gave the Committee copies of his testimony (attachment 4) and expressed support for SB 78. Mr. Beam expressed the need for proper funding in order for the companion animal act to be carried out successfully.

Warren Parker furnished copies of his testimony (attachment 5) and expressed support for the intent of SB 78.

The Chairman called attention to testimony provided for the Committee from Kathy McKee who could not be present (attachment 6). Ms. McKee wrote support for SB 78.

Senator Frahm gave the Committee copies of information received from Sharon Munk of Menlo, Kansas expressing opposition for the proposed SB 78 (attachment 7).

Marcia Gitelman gave the Committee copies of her testimony (attachment 8) and expressed opposition to SB 78. Ms. Gitelman suggested that the new livestock commissioner should be given 18 months to work on the enforcement of the companion animal act enforcement before consideration of moving the enforcement of the act to another department be discussed or action taken on.

Larry Woodson from the State Board of Agriculture reminded the Committee that an assessment is collected on all pet products now that is used by the Board of Agriculture to inspect pet products for quality.

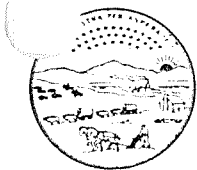
It was requested that Mr. Woodson prepare figures for the Committee showing how much the Board of Agriculture collects from the assessments on pet products and that an accounting of those monies be made in writing for the Committee.

The Chairman declared the hearing closed for SB 78 and called for action on Committee minutes.

Senator Doyen made a motion the minutes of February 14 be approved; Senator Daniels seconded the motion. Motion carried.

Senator Allen adjourned the Committee at 10:59 a.m.

attach 1



State of Kansas

Joan Finney, Governor

Department of Health and Environment

Office of the Secretary

Stanley C. Grant, Ph.D.,
Acting Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1522
FAX (913) 296-6231

Testimony Presented to
Senate Agriculture Committee

by

The Kansas Department of Health and Environment

S.B. 78

Summary/Background:

In 1988, the Animal Health Department created the Companion Animal Program to implement legislation passed earlier that year that amended the Animal Dealers Act. Legislative action was taken because it was felt that federal inspection and enforcement practices were inadequate, to improve the conditions under which companion animals were raised and sold, and because Kansas had developed a reputation as one of the nation's leading "puppy mills."

SB 78 proposes to transfer that program to KDHE. Passage of this bill would transfer to the Secretary, Kansas Department of Health and Environment, the powers, duties, and functions of the Livestock Commissioner relative to the animal dealer licensing and inspection law.

This bill basically substitutes the word Secretary for the word Commissioner. With regard to the animal dealer licensing and inspection law specified in KSA 47-1701 et seq., and the powers, duties and functions thereof, the proposal in New Section 15:

1. Transfers all powers, duties and functions of the Livestock Commissioner to the Secretary and names the Secretary as the successor to the Commissioner in every way.
2. Continues in effect until revised, amended or nullified pursuant to law, and deems to be those of the Secretary, all rules and regulations of the Commissioner.

Senate agriculture committee

2-19-91

attachment 1

3. Continues in effect until revised, amended or nullified pursuant to law, all orders and directives of the Commissioner and deems them to be those of the Secretary; and
4. Names the Secretary as successor to the Commissioner with regard to right, title or interest in real property, and with the power and authority to acquire, hold or dispose of such property.

New Section 16 transfers officers and employees engaged in the performance of powers, duties or functions of the animal dealer licensing and inspection law to the Department of Health and Environment, protects their retirement benefits and civil service rights, and deems their service to have been continuous.

New Section 17 provides that the Governor resolve any conflict resulting from the disposition of any property, power, duty or function, or unexpended appropriation balances resulting from this act. The section further names the Kansas Department of Health and Environment as successor to all property, property rights and records used for or pertaining to the performance of the powers, duties and functions resulting from this act.

New Section 18 provides that any judicial or administrative suit, action or other proceeding which commenced, or could have been commenced against the Commissioner with regard to the animal dealer and inspection law, or against any officer in relation to the discharge of their official duties shall not be abated by this transfer and permits the court to allow any such proceeding to be maintained by or against the Secretary or any officer affected. The section also provides for the continuation of any criminal action which had been initiated prior to the transfer.

New Section 19 provides for the transfer of appropriated and reappropriated animal dealer licensing and inspection funds to the Secretary and transfers liability to the Secretary for all accrued compensation or salaries of officers and employees who were engaged in program activities prior to the transfer.

Recommendations:

This program is inconsistent with the current program purposes of both the Divisions of Health and Environment. As the program is currently administered, the Attorney General provides enforcement support. Historically this agency has relied on its own Office of

Legal Services for enforcement support, and this approach has worked well. There are certain features of the program that do not fit the civil enforcement model which has been successful at KDHE.

Within the past two months, a new Livestock Commissioner has been appointed with overall responsibility for administering this program. He appears capable of bringing about a positive overhaul of the program in its current administrative location, and reportedly is opposed to the transfer of the program to KDHE. Historically, the Attorney General's Office has provided legal enforcement support for the program. In that situation, the program has had to compete with other programs, often of higher priority, for legal support. I would recommend that the Legislature consider adding an attorney to the program to devote full time to animal dealer and inspection activities.

KDHE does not seek this program and we feel that it is in our best interest to devote the energy and resources of the agency to human health and environmental issues. If, however, the program is to be transferred to KDHE, we would require resources totaling \$370,067 for essential legal and program staff to support this effort. This fiscal impact statement includes funding for major program changes that would be implemented with a transfer to KDHE. They include:

1. Professional requirements of, and classification for program field staff who are directly responsible for activities related to inspection, licensing and other regulatory activities.
2. An extensive program of supervisory activity that includes proper professional support and program oversight.
3. Training and continuing education to provide initial program orientation and ongoing education for the purpose of keeping program staff abreast of changing program practices and procedures.
4. Development of a comprehensive plan to include written protocol (procedures and policies) that establishes standards and practices related to inspection activities, processing of complaints, corrective action, and other aspects of the regulatory process.
5. Computerization of records to facilitate the issuance of licenses and renewal notices; the management of inspection lists, files and schedules; and, maintenance of complaint registers, and enforcement schedules.

6. Implementation of an in-house enforcement capability. This would be accomplished by hiring an additional attorney and one support person rather than being dependent on legal services from outside the agency. This model has proven very successful for KDHE.

These required essential added funds and positions are not provided for in the Governor's budget. We therefore do not seek either the assignment of the program without adequate resources or the fully funded program.

If it should be the desire of the Legislature to find the necessary funding, let me suggest a 1% tax on the wholesale price of all dog and cat food, and perhaps, pet products sold in this state to establish a support fund. Start up funds beginning July 1, 1991, could be advanced from the SGF and paid back during the last half of the fiscal year from the collected revenues in the "companion animal fee fund".

Because of differences in enforcement philosophy, the Office of Legal Services has prepared a bill balloon that would put this program more in the enforcement mode currently in existence at KDHE. David Traster will now explain our proposed amendments.

Presented by:
Stanley C. Grant
Acting Secretary
Kansas Department of Health and Environment
February 19, 1991

SENATE BILL No. 78

By Senator Allen

1-29

8 AN ACT concerning animal dealers; transferring the powers and
9 duties of the livestock commissioner to the department of health
10 and environment; amending K.S.A. 47-1708 and 47-1713 and
11 K.S.A. 1990 Supp. 47-1701, 47-1702, 47-1703, 47-1704, 47-1706,
12 47-1707, 47-1709, 47-1712, 47-1715, 47-1719, 47-1720 and 47-1721
13 and repealing the existing sections; also repealing K.S.A. 1990
14 Supp. 47-1707a and 47-1722.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 1990 Supp. 47-1701 is hereby amended to read
18 as follows: 47-1701. As used in this act, unless the context otherwise
19 requires:

20 (a) "Adequate feeding" means supplying at suitable intervals (not
21 to exceed 24 hours) of a quantity of wholesome foodstuff, suitable
22 for the animal species and age, and sufficient to maintain a reasonable
23 level of nutrition in each animal.

24 (b) "Adequate watering" means a supply of clean, fresh, potable
25 water, supplied in a sanitary manner and either continuously ac-
26 cessible to each animal or supplied at intervals suitable for the animal
27 species, not to exceed intervals of 12 hours.

28 (c) "Ambient temperature" means the temperature surrounding
29 the animal.

30 (d) (1) "Animal" means any live dog, cat, rabbit, rodent, non-
31 human primate, bird or other warm-blooded vertebrate or any fish,
32 snake or other cold-blooded vertebrate.

33 (2) Animal does not include horses, cattle, sheep, goats, swine
34 or domestic fowl.

35 (e) "Animal dealer" means any person who operates animal dealer
36 premises.

37 (f) (1) "Animal dealer premises" means any premises where dogs
38 or cats, or both, are sold, or offered or maintained for sale, at
39 wholesale for resale to another.

40 (2) Animal dealer premises does not include: (A) Any pound or
41 animal shelter; or (B) any ~~premises described in subsection (m)(1),~~

42 (g) "Animal shelter" means a facility which is used or designed
for use to house or contain any animal and which is owned, operated

hobby kennel

1-5

or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit corporate organizations devoted to the welfare, protection and humane treatment of animals.

(h) "Cat" means an animal which is wholly or in part of the species *Felis domesticus*.

(i) "Commissioner" means the livestock commissioner appointed by the Kansas animal health board. "Secretary" means the secretary of health and environment.

(j) "Dog" means any animal which is wholly or in part of the species *Canis familiaris* but does not include any greyhound, as defined by K.S.A. 1987 1990 Supp. 74-8802, and amendments thereto.

(k) "Dog warden" means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, animal control officer, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(l) "Euthanasia" means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718, and amendments thereto.

(m) (1) "Hobby kennel" means any premises where only dogs or cats, or both, which are produced and raised on such premises are sold, or offered or maintained for sale, by a person who resides on such premises, but only if the total number of dogs or cats, or both, which are produced and raised on such premises and are sold during the registration year is fewer than all or part of six litters of animals or 30 individual animals, whichever is less, whether such animals are dogs or cats, or both.

(2) Hobby kennel does not include: (A) Any pound or animal shelter; or (B) any premises where fewer than all or part of three litters of animals, whether dogs or cats, or both, are sold during the registration year.

(n) "Hobby kennel operator" means any person who operates a hobby kennel.

(o) "Housing facility" means any room, building or area used to contain a primary enclosure or enclosures.

(p) "License year" or "registration year" means the 12-month period ending on June 30.

1-6

(q) "Person" means any individual, association, partnership, corporation or other entity.

(r) (1) "Pet shop" means any premises where there are sold, or offered or maintained for sale, at retail and not for resale to another: (A) Any dogs or cats, or both; or (B) any other animals except those which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.

(2) Pet shop does not include: (A) Any pound or animal shelter; (B) any premises where only fish are sold, or offered or maintained for sale; or (C) any animal dealer premises, ~~or, any premises described in subsection (m)(1),~~ where the only animals, other than dogs or cats, which are sold, or offered or maintained for sale, are animals which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person residing on such premises.

(D) any hobby kennel

(E)

(s) "Pet shop operator" means any person who operates a pet shop.

(t) "Pound" means a facility:

(1) Operated by the state, or any political subdivision thereof, for the purpose of impounding or harboring any seized stray, homeless or abandoned animal; or

(2) operated for such a purpose under contract with any municipality or incorporated society for the prevention of cruelty to animals or by another person under contract with such municipality.

(u) "Primary enclosure" means any structure used or designed for use to restrict any animal to a limited amount of space; such as a room, pen, cage, compartment or hutch.

(v) "Research facility" means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.

(w) "Sale," "sell" and "sold" include transfers by sale or exchange.

(x) "Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

Sec. 2. K.S.A. 1990 Supp. 47-1702 is hereby amended to read as follows: 47-1702. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any person, other than a person licensed under public law 91-579 (7 U.S.C. & 2131 et seq.), to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Except as otherwise provided by K.S.A. 1988 1990 Supp. 47-1722, on

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1 and after January 1, 1980 and amendments thereto, it shall be
2 unlawful for any person licensed under public law 91-579 (7
3 U.S.C. & 2131 et seq.) to act as or be an animal dealer unless
4 such person has obtained from the ~~commissioner~~ secretary an ani-
5 mal dealer license for each animal dealer premises operated by such
6 person. Application for such license shall be made in writing on a
7 form provided by the ~~commissioner~~ secretary. The license period
8 shall be for the license year ending on June 30 following the issuance
9 date.

10 Sec. 3. K.S.A. 1990 Supp. 47-1703 is hereby amended to read
11 as follows: 47-1703. Except as otherwise provided by K.S.A. 1988
12 1990 Supp. 47-1722, and amendments thereto, it shall be unlawful
13 for any person to act as or be a pet shop operator unless such person
14 has obtained from the ~~commissioner~~ secretary a pet shop operator
15 license for each pet shop operated by such person. Application for
16 each such license shall be made in writing on a form provided by
17 the ~~commissioner~~ secretary. The license period shall be for the
18 license year ending on June 30 following the issuance date.

19 Sec. 4. K.S.A. 1990 Supp. 47-1704 is hereby amended to read
20 as follows: 47-1704. Except as otherwise provided by K.S.A. 1988
21 1990 Supp. 47-1722, and amendments thereto, it shall be unlawful
22 for any city of the first class or the officials thereof to operate a
23 pound or any corporate entity to operate an animal shelter as a
24 pound unless a license for such pound or shelter has been obtained
25 from the ~~commissioner~~ secretary. Application for such license shall
26 be made on a form provided by the ~~commissioner~~ secretary. The
27 license period shall be for the registration year ending on June 30
28 following the issuance date.

29 Sec. 5. K.S.A. 1990 Supp. 47-1706 is hereby amended to read
30 as follows: 47-1706. (a) The ~~commissioner~~ secretary may refuse to
31 issue or renew or may suspend or revoke any license or certificate
32 of registration required under K.S.A. 47-1701 et seq., and amend-
33 ments thereto, for any one or more of the following reasons:

34 (1) Material misstatement in the application for the original li-
35 cense or certificate of registration, or in the application for any
36 renewal of a license or certificate of registration;

37 (2) willful disregard of any provision of this act or any rule and
38 regulation adopted hereunder, or any willful aiding or abetting of
39 another in the violation of any provision of this act or any rule and
40 regulation adopted hereunder;

41 (3) permitting any license or certificate of registration issued
42 hereunder to be used by an unlicensed or unregistered person or
43 transferred to unlicensed or unregistered premises;

1 (4) the conviction of any crime, an essential element of which is
2 misstatement, fraud or dishonesty, or relating to the theft of or
3 cruelty to animals;

4 (5) substantial misrepresentation;

5 (6) misrepresentation or false promise, made through advertising,
6 salespersons, agents or otherwise, in connection with the operation
7 of business of the licensee or registrant;

8 (7) fraudulent bill of sale;

9 (8) the housing facility or the primary enclosure is inadequate;
10 or

11 (9) the feeding, watering, sanitizing and housing practices at the
12 licensee's or registrant's premises are not consistent with this act or
13 the rules and regulations adopted hereunder.

14 (b) Any refusal to issue or renew a license or certificate of reg-
15 istration, and any suspension or revocation of a license or certificate
16 of registration, under this section shall be in accordance with the
17 provisions of the Kansas administrative procedure act.

18 ~~(c) Whenever the commissioner secretary denies, suspends or~~
19 ~~revokes a license or certificate of registration under this section, the~~
20 ~~commissioner secretary shall seize and impound any animals in the~~
21 ~~possession, custody or care of the person whose license or certificate~~
22 ~~of registration is denied, suspended or revoked if there are reasonable~~
23 ~~grounds to believe that the animals' health, safety or welfare is~~
24 ~~endangered. Except as provided by K.S.A. 21-4311, and amendments~~
25 ~~thereto, such animals may be returned to the person owning them~~
26 ~~if there is satisfactory evidence that the animals will receive adequate~~
27 ~~care by that person or such animals may be sold or euthanized, at~~
28 ~~the discretion of the commissioner secretary. Costs of care of such~~
29 ~~animals while impounded shall be paid by the person from whom~~
30 ~~the animals were seized and impounded.~~

31 Sec. 6. K.S.A. 1990 Supp. 47-1707 is hereby amended to read
32 as follows: 47-1707. (a) In addition to or in lieu of any other civil
33 or criminal penalty provided by law, the commissioner secretary,
34 upon a finding that a person has violated or failed to comply with
35 any provision of this act or any rule and regulation adopted here-
36 under, may impose on such person a civil fine not exceeding \$1,000
37 for each violation.

38 (b) Any imposition of a civil fine pursuant to this section shall
39 be only upon notice and a hearing conducted in accordance with
40 the Kansas administrative procedure act and shall be subject to
41 review in accordance with the act for judicial review and civil en-
42 forcement of agency actions.

43 ~~(c) Whenever the commissioner has reasonable grounds to be-~~

6-1
(10) refusal to allow the secretary or the secretary's authorized
representative access to the facility licensed or certified, or
sought to be licensed or certified.

Delete

1-10

1 ~~believe that a person required to be licensed or registered under this~~
2 ~~act has failed to comply with or has violated any provision of this~~
3 ~~act or any rule and regulation adopted hereunder and that the health,~~
4 ~~safety or welfare of animals in such person's possession, custody or~~
5 ~~care is endangered thereby, the commissioner shall seize and im-~~
6 ~~pound such animals using emergency adjudicative proceedings in~~
7 ~~accordance with the Kansas administrative procedure act. Except as~~
8 ~~provided by K.S.A. 21-4311, and amendments thereto, such animals~~
9 ~~may be returned to the person owning them if there is satisfactory~~
10 ~~evidence that the animals will receive adequate care by that person~~
11 ~~or such animals may be sold or euthanized, at the discretion of the~~
12 ~~commissioner. Costs of care of such animals while impounded shall~~
13 ~~be paid by the person from whom the animals were seized and~~
14 ~~impounded.~~

Delete

15 Sec. 7. K.S.A. 47-1708 is hereby amended to read as follows:
16 47-1708. Any action of the commissioner *secretary* pursuant to
17 ~~K.S.A. 47-1705 or 47-1706, and amendments thereto,~~ is subject to
18 review in accordance with the act for judicial review and civil en-
19 forcement of agency actions.

this act

20 Sec. 8. K.S.A. 1990 Supp. 47-1709 is hereby amended to read
21 as follows: 47-1709. (a) The commissioner *secretary* or the com-
22 ~~missioner's secretary's~~ authorized representative shall make an in-
23 ~~spection of the premises for which an application for an original~~
24 ~~license is made under K.S.A. 47-1701 et seq., and amendments~~
25 ~~thereto, before issuance of such license.~~

or certificate of registration

26 (b) The commissioner *secretary* or the commissioner's *secre-*
27 *tary's* authorized representative shall make an inspection of each
28 premises for which a license has been issued under K.S.A. 47-1701
29 et seq., and amendments thereto. If such premises are premises of
30 a person licensed under public law 91-579 (7 U.S.C. & 2131 et seq.),
31 such premises shall be inspected at least once each year. Otherwise,
32 the premises shall be inspected at least twice each year.

or certificate of registration

33 (c) The commissioner *secretary* or the commissioner's *secre-*
34 *tary's* authorized representative shall make inspections of the prem-
35 ~~ises of a person required to be licensed or registered under K.S.A.~~
36 ~~47-1701 et seq., and amendments thereto, upon a determination by~~
37 ~~the commissioner secretary that there are reasonable grounds to~~
38 ~~believe that the person is violating the provisions of K.S.A 47-1701~~
39 ~~et seq., and amendments thereto, or rules and regulations adopted~~
40 ~~thereunder or that there are grounds for suspension or revocation~~
41 ~~of such person's license or certificate of registration.~~

a registrant, licensee or

42 (d) Any complaint filed with the commissioner *secretary* shall
43 be confidential and shall not be released to any person other than

without the consent of the person filing the complaint,

1 employees of the commissioner secretary as necessary to carry out
2 the duties of their employment.

3 (e) Any person making inspections under this section shall be
4 trained by the commissioner secretary in reasonable standards of
5 animal care.

6 (f) The commissioner secretary may request a licensed veteri-
7 narian to assist in any inspection or investigation made by the com-
8 missioner secretary or the commissioner's secretary's authorized
9 representative under this section.

10 (g) ~~Any person acting as the commissioner's secretary's au-~~
11 ~~thorized representative for purposes of making inspections and con-~~
12 ~~ducting investigations under this section who knowingly falsifies the~~
13 ~~results or findings of any inspection or investigation or who inten-~~
14 ~~tionally fails or refuses to make an inspection or conduct an inves-~~
15 ~~tigation pursuant to this section shall be guilty of a class A~~
16 ~~misdemeanor.~~

17 (h) ~~No person shall act as the commissioner's secretary's au-~~
18 ~~thorized representative for the purposes of making inspections and~~
19 ~~conducting investigations under this section if such person has a~~
20 ~~beneficial interest in a person required to be licensed or registered~~
21 ~~pursuant to K.S.A. 47-1701 et seq., and amendments thereto.~~

22 (i) ~~Records of inspections pursuant to this section shall be main-~~
23 ~~tained in the office of the Kansas animal health department.~~

24 Sec. 9. K.S.A. 1990 Supp. 47-1712 is hereby amended to read
25 as follows: 47-1712. (a) The commissioner secretary is hereby au-
26 thorized to adopt rules and regulations necessary for the adminis-
27 tration of this act. Such rules and regulations shall include, but not
28 be limited to, provisions relating to: (1) Reasonable treatment of
29 animals in the possession, custody or care of a licensee or registrant
30 or being transported to or from licensed or registered premises; (2)
31 a requirement that each licensee and registrant file with the com-
32 missioner secretary evidence that animals entering or leaving the
33 state are free from any visible symptoms of communicable disease;
34 (3) identification of animals handled; (4) primary enclosures; (5) hous-
35 ing facilities; (6) pounds; (7) research facilities; (8) sanitation; (9)
36 euthanasia; (10) ambient temperatures; (11) feeding; (12) watering;
37 (13) adequate veterinary medical care; (14) inspections of licensed or
38 registered premises, investigations of complaints and training of per-
39 sons conducting such inspections and investigations; (15) a require-
40 ment that each licensee keep and maintain, for inspection by the
41 commission, such records as necessary to administer and enforce the
42 provisions of this act; and (16) seizure and impoundment of animals
43 by the commissioner secretary.

11-1
Delete

registrant and
Secretary

1-12

1 (b) The ~~commissioner~~ *secretary* may adopt in whole or in part,
2 the rules and regulations promulgated by the secretary of the United
3 States department of agriculture pursuant to the provisions of the
4 United States public law 91-579 (7 U.S.C. & 2131 et seq.), commonly
5 known as the animal welfare act.

6 Sec. 10. K.S.A. 47-1713 is hereby amended to read as follows:
7 47-1713. The ~~commissioner~~ *secretary* may prohibit the sale or gift
8 within the state of animals or exotic pet animals which constitute a
9 hazard to human health or safety or to animal health or safety.

10 Any animal or exotic pet animal sold by a pet shop operator
11 licensed pursuant to the provisions of this act shall be accompanied
12 by a written instrument issued by such pet shop operator on a form
13 prescribed by the ~~commissioner~~ *secretary* certifying that such animal
14 is in sound health.

15 ~~Sec. 11. K.S.A. 1990 Supp. 47-1715 is hereby amended to read~~
16 ~~as follows: 47-1715. (a) Any violation of or failure to comply with~~
17 ~~any provision of this act, or any rule and regulation adopted here-~~
18 ~~under, shall constitute a class A misdemeanor. Continued operation,~~
19 ~~after a conviction, shall constitute a separate offense for each day of~~
20 ~~operation.~~

21 ~~(b) Upon a conviction of a person for any violation of this act,~~
22 ~~or any rule and regulation adopted hereunder, the court shall order~~
23 ~~the commissioner secretary to seize and impound any animals in~~
24 ~~the convicted person's possession, custody or care if there are rea-~~
25 ~~sonable grounds to believe that the animals' health, safety or welfare~~
26 ~~is endangered. Except as provided by K.S.A. 21-4311, and amend-~~
27 ~~ments thereto, such animals may be returned to the person owning~~
28 ~~them if there is satisfactory evidence that the animals will receive~~
29 ~~adequate care by that person or such animals may be sold or eu-~~
30 ~~thanized, at the discretion of the commissioner secretary. Costs of~~
31 ~~care of such animals while impounded shall be paid by the convicted~~
32 ~~person.~~

Delete

33 Sec. 12. K.S.A. 1990 Supp. 47-1719 is hereby amended to read
34 as follows: 47-1719. (a) On and after January 1, 1989, It shall be
35 unlawful for any person to act as or be a hobby kennel operator
36 unless such person has obtained from the ~~commissioner~~ *secretary*
37 a hobby kennel operator certificate of registration. Application for
38 such certificate shall be made in writing on a form provided by the
39 ~~commissioner~~ *secretary*. The registration period shall be for the
40 registration year ending on June 30 following the issuance date.

41 (b) This section shall be part of and supplemental to K.S.A. 47-
42 1701 et seq., and amendments thereto.

43 Sec. 13. K.S.A. 1990 Supp. 47-1720 is hereby amended to read

1 as follows: 47-1720. (a) On and after January 1, 1989, It shall be
2 unlawful for any person to operate a research facility unless such
3 person has obtained from the ~~commissioner~~ secretary a research
4 facility license. Application for such license shall be made in writing
5 on a form provided by the ~~commissioner~~ secretary. The license
6 period shall be for the license year ending on June 30 following the
7 issuance date.

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

10 Sec. 14. K.S.A. 1990 Supp. 47-1721 is hereby amended to read
11 as follows: 47-1721. (a) Each application for issuance or renewal of
12 a license or certificate of registration required under K.S.A. 47-1701
13 *et seq.*, and amendments thereto shall be accompanied by the fee
14 prescribed by the ~~commissioner~~ secretary under this section. Such
15 fees shall be as follows:

16 (1) For a license for premises of a person licensed under public
17 law 91-579 (7 U.S.C. & 2131 *et seq.*), an amount not to exceed \$75.

18 (2) For a license for any other premises, an amount not to exceed
19 \$150.

20 (3) For a certificate of registration, an amount not to exceed \$25.

21 (b) The ~~commissioner~~ secretary shall determine annually the
22 amount necessary to carry out and enforce K.S.A. 47-1701 *et seq.*,
23 and amendments thereto, for the next ensuing fiscal year and shall
24 fix by rules and regulations the license and registration fees for such
25 year at the amount necessary for that purpose, subject to the lim-
26 itations of this section. In fixing such fees, the ~~commissioner~~ sec-
27 retary may establish categories of licenses and registrations, based
28 upon the type of license or registration, size of the licensed or
29 registered business or activity and the premises where such business
30 or activity is conducted, and may establish different fees for each
31 such category. The fees in effect immediately prior to the effective
32 date of this act shall continue in effect until different fees are fixed
33 by the ~~commissioner~~ secretary as provided by this subsection.

34 (c) If a licensee, registrant or applicant for a license or registration
35 requests an inspection of the premises of such licensee, registrant
36 or applicant, the ~~commissioner~~ secretary shall assess the costs of
37 such inspection, as established by rules and regulations of the ~~com-
38 missioner~~ secretary, to such licensee, registrant or applicant.

39 (d) No fee or assessment required pursuant to this section shall
40 be refundable.

41 (e) The ~~commissioner~~ secretary shall remit all moneys received
42 by or for the ~~commissioner~~ secretary under this section to the state
43 treasurer at least monthly. Upon receipt of each such remittance,

1-13

1 the state treasurer shall deposit the entire amount in the state trea-
2 sury and shall credit it to the animal disease control fund.

3 (f) This section shall be part of and supplemental to K.S.A. 47-
4 1701 *et seq.*, and amendments thereto.

5 New Sec. 15. (a) All of the powers, duties and functions of the
6 livestock commissioner with regard to the animal dealer licensing
7 and inspection law specified in K.S.A. 47-1701 *et seq.*, and amend-
8 ments thereto, are hereby transferred to and conferred and imposed
9 upon the secretary of the department of health and environment.

10 (b) The secretary of the department of health and environment
11 shall be the successor in every way to the powers, duties and func-
12 tions of the livestock commissioner with regard to the animal dealer
13 licensing and inspection law specified in K.S.A. 47-1701 *et seq.*, and
14 amendments thereto, in which the same were vested prior to the
15 effective date of this act. Every act performed in the exercise of
16 such powers, duties and functions by or under the authority of the
17 secretary of the department of health and environment shall be
18 deemed to have the same force and effect as if performed by the
19 livestock commissioner with regard to the animal dealers licensing
20 and inspection law specified in K.S.A. 47-1701 *et seq.*, and amend-
21 ments thereto, in which such powers, duties and functions were
22 vested prior to the effective date of this act.

23 (c) Whenever the livestock commissioner, or words of like effect,
24 with regard to the animal dealers licensing and inspection law spec-
25 ified in K.S.A. 47-1701 *et seq.*, and amendments thereto, is referred
26 to or designated by a statute, contract or other document, such
27 reference or designation shall be deemed to apply to the secretary
28 of the department of health and environment.

29 (d) All rules and regulations of the livestock commissioner with
30 regard to the animal dealer licensing and inspection law specified
31 in K.S.A. 47-1701 *et seq.*, and amendments thereto, in existence on
32 the effective date of this act shall continue to be effective and shall
33 be deemed to be duly adopted rules and regulations of the secretary
34 of the department of health and environment until revised, amended,
35 revoked or nullified pursuant to law.

36 (e) All orders and directives of the livestock commissioner with
37 regard to the animal dealer licensing and inspection law specified
38 in K.S.A. 47-1701 *et seq.*, and amendments thereto, in existence on
39 the effective date of this act shall continue to be effective and shall
40 be deemed the orders and directives of the secretary of the de-
41 partment of health and environment until revised, amended or nul-
42 lified pursuant to law.

43 (f) The secretary of the department of health and environment

New Sec. 15. (a) The secretary shall, pursuant to the emergency
adjudicative proceedings of the Kansas administrative procedure
act, seize and impound animals in the possession of a person
licensed or registered or required to be licensed or registered
under this act when:

(1) the secretary denies, suspends or revokes a license or
certificate of registration in accordance with this act, or;

(2) the secretary has reasonable grounds to believe that a
person required to be licensed or certified under this act has
failed to comply with this or has violated any provision of this
act or any rule and regulation adopted hereunder and that the
health, safety or welfare of animals in such person's possession,
custody or care is endangered thereby.

(b) 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 secretary. Costs of care
of such animals while impounded shall be paid by the person from
whom the animals were seized and impounded.

New Sec. 16. Notwithstanding the existence or pursuit of any other
remedy, the secretary, in the manner provided by the act for
judicial review and civil enforcement of agency actions, may
maintain an action in the district court in the name of the state
of Kansas for injunction or other process to enforce the provisions
of this act.

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1-15

3 shall succeed to whatever right, title or interest the livestock com-
 4 missioner, with regard to the animal dealer licensing and inspection
 5 law specified in K.S.A. 47-1701 *et seq.*, and amendments thereto,
 6 has acquired in any real property in this state, and the secretary
 7 shall hold the same for and in the name of the state of Kansas.

8 (g) On and after the effective date of this act whenever any
 9 statute, contract, deed or other document concerns the power or
 10 authority of the livestock commissioner with regard to the animal
 11 dealer licensing and inspection law specified in K.S.A. 47-1701 *et*
 12 *seq.*, and amendments thereto, to acquire, hold or dispose of real
 13 property or any interest therein, the secretary of the department of
 14 health and environment shall succeed to such power or authority.

18

15 New Sec. 16. On the effective date of this act, officers and em-
 16 ployees who, immediately prior to such date, were engaged in the
 17 performance of powers, duties or functions of the animal dealer
 18 licensing and inspection law specified in K.S.A. 47-1701 *et seq.*, and
 19 amendments thereto, and who, in the opinion of the secretary of
 20 the department of health and environment, are necessary to perform
 21 the powers, duties and functions of the animal dealer licensing and
 22 inspection law specified in K.S.A. 47-1701 *et seq.*, and amendments
 23 thereto, shall be transferred to, and shall become officers and em-
 24 ployees of the department of health and environment. Any such
 25 officer or employee shall retain all retirement benefits and all rights
 26 of civil service which had accrued to or vested in such officer or
 27 employee prior to the effective date of this act. The service of each
 28 such officer and employee so transferred shall be deemed to have
 29 been continuous.

19

30 New Sec. 17. (a) When any conflict arises as to the disposition
 31 of any property, power, duty or function or the unexpended balance
 32 of any appropriation as a result of any abolition, transfer, attachment
 33 or change made by or under authority of this act, such conflict shall
 34 be resolved by the governor, whose decision shall be final.

35 (b) The Kansas department of health and environment shall suc-
 36 ceed to all property, property rights and records which were used
 37 for or pertain to the performance of the powers, duties and functions
 38 transferred to the secretary of the department of health and envi-
 39 ronment. Any conflict as to the proper disposition of property or
 40 records arising under this section, and resulting from the transfer,
 41 attachment or all or part of the powers, duties and functions of the
 42 livestock commissioner, shall be determined by the governor, whose
 43 decision shall be final.

20

44 New Sec. 18. (a) No suit, action or other proceeding, judicial or
 45 administrative, lawfully commenced, or which could have been com-

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menced, by or against the livestock commissioner with regard to the animal dealer and inspection law specified in K.S.A. 47-1701 *et seq.*, and amendments thereto, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the transfers effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the secretary of the department of health and environment or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

New Sec. 19. (a) On the effective date of this act, the balance of all funds appropriated and reappropriated to the livestock commissioner with regard to the animal dealer licensing and inspection law specified in K.S.A. 47-1701 *et seq.*, and amendments thereto, is hereby transferred to the Kansas department of health and environment and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this act, the liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or officer transferred by this act, or which becomes a part of the Kansas department of health and environment or the powers, duties and functions of which are transferred to the secretary of the department of health and environment, shall be assumed and paid by the Kansas department of health and environment.

Sec. ~~20~~ K.S.A. 47-1708 and 47-1713 and K.S.A. 1990 Supp. 47-1701, 47-1702, 47-1703, 47-1704, 47-1706, 47-1707, 47-1707a, 47-1709, 47-1712, 47-1715, 47-1719, 47-1720, 47-1721 and 47-1722 are hereby repealed.

Sec. ~~21~~. This act shall take effect and be in force from and after its publication in the statute book.

21

22

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Article 17.—ANIMAL DEALERS

Attorney General's Opinions:

Animal dealers act; subject matter of L. 1988, ch. 189, 88-74.

47-1701. Definitions. As used in this act, unless the context otherwise requires:

(a) "Adequate feeding" means supplying at suitable intervals (not to exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each

(b) "Adequate watering" means a supply of clean, fresh, potable water, supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species, not to exceed intervals of 12 hours.

(c) "Ambient temperature" means the temperature surrounding the animal.

(d) (1) "Animal" means any live dog, cat, rabbit, rodent, nonhuman primate, bird or other warm-blooded vertebrate or any fish, snake or other cold-blooded vertebrate.

(2) Animal does not include horses, cattle, sheep, goats, swine or domestic fowl.

(e) "Animal dealer" means any person who operates animal dealer premises.

(f) (1) "Animal dealer premises" means any premises where dogs or cats, or both, are sold or offered or maintained for sale, at wholesale for resale to another.

(2) Animal dealer premises does not include: (A) Any pound or animal shelter; or (B) any premises described in subsection (m)(1).

(g) "Animal shelter" means a facility which is used or designed for use to house or contain any animal and which is owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other non-profit corporate organizations devoted to the welfare, protection and humane treatment of animals.

(h) "Cat" means an animal which is wholly or in part of the species *Felis domesticus*.

(i) "Commissioner" means the livestock commissioner appointed by the Kansas animal health board.

(j) "Dog" means any animal which is wholly or in part of the species *Canis familiaris* but does not include any greyhound, as defined by K.S.A. 1987 Supp. 74-8802 and amendments thereto.

(k) "Dog warden" means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, animal control officer, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

→ K.S.A. 47-1701 et seq. shall be known and cited as the Kansas Animal Dealers Act and shall license and regulate the conditions of certain premises and facilities where animals are maintained, sold, or offered or maintained for sale within the state of Kansas

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(l) "Euthanasia" means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718 and amendments thereto.

(m) (1) "Hobby kennel" means any premises where only dogs or cats, or both, which are produced and raised on such premises are sold, or offered or maintained for sale, by a person who resides on such premises, but only if the total number of dogs or cats, or both, which are produced and raised on such premises and are sold during the registration year is fewer than all or part of six litters of animals or 30 individual animals, whichever is less, whether such animals are dogs or cats, or both.

(2) Hobby kennel does not include: (A) Any pound or animal shelter; or (B) any premises where fewer than all or part of three litters of animals, whether dogs or cats, or both, are sold during the registration year.

(n) "Hobby kennel operator" means any person who operates a hobby kennel.

(o) "Housing facility" means any room, building or area used to contain a primary enclosure or enclosures.

(p) "License year" or "registration year" means the 12-month period ending on June 30.

(q) "Person" means any individual, association, partnership, corporation or other entity.

(r) (1) "Pet shop" means any premises where there are sold, or offered or maintained for sale, at retail and not for resale to another: (A) Any dogs or cats, or both; or (B) any other animals except those which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.

(2) Pet shop does not include: (A) Any pound or animal shelter; (B) any premises where only fish are sold, or offered or maintained for sale; or (C) any animal dealer premises, or any premises described in subsection (m)(1), where the only animals, other than dogs or cats, which are sold, or offered or maintained for sale, are animals which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person residing on such premises.

(s) "Pet shop operator" means any person who operates a pet shop.

(t) "Pound" means a facility:

(1) Operated by the state, or any political subdivision thereof, for the purpose of impounding or harboring any seized stray, homeless or abandoned animal; or

(2) operated for such a purpose under contract with any municipality or incorporated society for the prevention of cruelty to animals or by another person under contract with such municipality.

(u) "Primary enclosure" means any structure used or designed for use to restrict any animal to a limited amount of space, such as a room, pen, cage, compartment or hutch.

(v) "Research facility" means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.

(w) "Sale," "sell" and "sold" include transfers by sale or exchange.

(x) "Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

History: L. 1972, ch. 201, § 1; L. 1974, ch. 226, § 1; L. 1980, ch. 157, § 2; L. 1988, ch. 189, § 1; July 1.

47-1702. Animal dealer license. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any person, other than a person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.), to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, on and after January 1, 1989, it shall be unlawful for any person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.) to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Application for such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

History: L. 1972, ch. 201, § 2; L. 1980, ch. 156, § 7; L. 1986, ch. 197, § 6; L. 1988, ch. 189, § 2; July 1.

47-1703. Pet shop operator license. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any person to act as or be a pet shop operator unless such person has obtained from the commissioner a pet shop operator license for each pet shop operated by such person. Application for each such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

History: L. 1972, ch. 201, § 3; L. 1988, ch. 189, § 3; July 1.

47-1704. Pound or animal shelter license. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any city of the first class or the officials thereof to operate a pound or any corporate entity to operate an animal shelter as a pound unless a license for such pound or shelter has been obtained from the commissioner. Application for such license shall be made on a form provided by the commissioner. The license period shall be for the registration year ending on June 30 following the issuance date.

History: L. 1972, ch. 201, § 4; L. 1988, ch. 189, § 4; July 1.

→ Maintaining animals for sale is presumed whenever twenty (20) or more animals are maintained by any person.

47-1705.

History: L. 1972, ch. 201, § 5; L. 1988, ch. 356, § 158; Repealed, L. 1988, ch. 189, § 15; Repealed, L. 1989, ch. 157, § 1; July 1.

47-1706. Refusal to issue or renew or suspension or revocation of license or registration; grounds; judicial review; seizure and disposition of animals, when. (a) The commissioner may refuse to issue or renew or may suspend or revoke any license or certificate of registration required under K.S.A. 47-1701 *et seq.* and amendments thereto for any one or more of the following reasons:

(1) Material misstatement in the application for the original license or certificate of registration, or in the application for any renewal of a license or certificate of registration;

(2) willful disregard of any provision of this act or any rule and regulation adopted hereunder, or any willful aiding or abetting of another in the violation of any provision of this act or any rule and regulation adopted hereunder;

(3) permitting any license or certificate of registration issued hereunder to be used by an unlicensed or unregistered person or transferred to unlicensed or unregistered premises;

(4) the conviction of any crime, an essential element of which is misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals;

(5) substantial misrepresentation;

(6) misrepresentation or false promise, made through advertising, salespersons, agents or otherwise, in connection with the operation of business of the licensee or registrant;

(7) fraudulent bill of sale;

(8) the housing facility or the primary enclosure is inadequate; or

(9) the feeding, watering, sanitizing and housing practices at the licensee's or registrant's premises are not consistent with this act or the rules and regulations adopted hereunder.

(b) Any refusal to issue or renew a license or certificate of registration, and any suspension or revocation of a license or certificate of registration, under this section shall be in accordance with the provisions of the Kansas administrative procedure act.

(c) Whenever the commissioner denies, suspends or revokes a license or certificate of registration under this section, the commissioner 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 or euthanized, at the discretion of the commissioner. ~~Costs of care of such animals while impounded shall be paid by the person from whom the animals were seized and impounded.~~

History: L. 1972, ch. 201, § 6; L. 1988, ch. 189, § 7; July 1.

and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions

Euthanasia may be authorized by the Commissioner if the animal is diseased, unsocialized or disabled beyond recovery for any useful purpose

placed and services for seized and

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

2-4

47-1707. Administrative civil fine for violations of act; judicial review; seizure and disposition of animals, when. [See Revisor's Note] (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the commissioner, upon a finding that a person has violated or failed to comply with any provision of this act or any rule and regulation adopted hereunder, may impose on such person a civil fine not exceeding \$1,000 for each violation.

(b) Any imposition of a civil fine pursuant to this section shall be only upon notice and a hearing conducted in accordance with the Kansas administrative procedure act and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) Whenever the commissioner has reasonable grounds to believe that a person required to be licensed or registered under this act has failed to comply with or has violated any provision of this act or any rule and regulation adopted hereunder and that the health, safety or welfare of animals in such person's possession, custody or care is endangered thereby, the commissioner shall seize and impound such animals using emergency adjudicative proceedings in accordance with the Kansas administrative procedure act. 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 for euthanized, at the discretion of the commissioner. Costs of care of such animals while impounded shall be paid by the person from whom the animals were seized and impounded.

History: L. 1972, ch. 201, § 7; L. 1988, ch. 189, § 8; July 1.

Revisor's Note:

This section was amended twice in the 1988 session, see also 47-1707a.

~~**47-1707a. Same; hearing.** [See Revisor's Note] Before refusing to issue or renew an animal dealer's license or a pet shop operator's license and before suspending or revoking such a license, the commissioner shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act and shall determine whether the applicant or the person holding such a license is qualified and privileged to be licensed.~~

History: L. 1972, ch. 201, § 7; L. 1988, ch. 356, § 159; July 1, 1989.

Revisor's Note:

Section was amended twice in 1988 session, see also 47-1707.

~~**47-1708. Judicial review of commissioner's actions.** Any action of the commissioner pursuant to K.S.A. 47-1705 or 47-1706, and amendments thereto, is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.~~

History: L. 1972, ch. 201, § 8; L. 1986, ch. 318, § 71; July 1.

an applicant, a licensee, or a registrant or

Euthanasia may be authorized by the commissioner if the animal is diseased, unsocialized or disabled beyond recovery for any useful purpose

placed

and services for

seized and

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

Repeal 47-1707a (covered by 47-1706)

Repeal 47-1708 (covered by 47-1706)

47-1709. Inspections and investigations; confidentiality of complaints; records of inspections. (a) The commissioner or the commissioner's authorized representative shall make an inspection of the premises for which an application for an original license is made under K.S.A. 47-1701 et seq. and amendments thereto before issuance of such license.

(b) The commissioner or the commissioner's authorized representative shall make an inspection of each premises for which a license has been issued under K.S.A. 47-1701 et seq. and amendments thereto. If such premises are premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.), such premises shall be inspected at least once each year. Otherwise, the premises shall be inspected at least twice each year.

(c) The commissioner or the commissioner's authorized representative shall make inspections of the premises of a person required to be licensed or registered under K.S.A. 47-1701 et seq. and amendments thereto upon a determination by the commissioner that there are reasonable grounds to believe that the person is violating the provisions of K.S.A. 47-1701 et seq. and amendments thereto or rules and regulations adopted thereunder or that there are grounds for suspension or revocation of such person's license or certificate of registration.

(d) Any complaint filed with the commissioner shall be confidential and shall not be released to any person other than employees of the commissioner as necessary to carry out the duties of their employment.

(e) Any person making inspections under this section shall be trained by the commissioner in reasonable standards of animal care.

(f) The commissioner may request a licensed veterinarian to assist in any inspection or investigation made by the commissioner or the commissioner's authorized representative under this section.

(g) Any person acting as the commissioner's authorized representative for purposes of making inspections and conducting investigations under this section who knowingly falsifies the results or findings of any inspection or investigation or who intentionally fails or refuses to make an inspection or conduct an investigation pursuant to this section shall be guilty of a class A misdemeanor.

(h) No person shall act as the commissioner's authorized representative for the purposes of making inspections and conducting investigations under this section if such person has a beneficial interest in a person required to be licensed or registered pursuant to K.S.A. 47-1701 et seq. and amendments thereto.

(i) Records of inspections pursuant to this section shall be maintained in the office of the Kansas animal health department.

History: L. 1972, ch. 201, § 9; L. 1988, ch. 189, § 9; July 1.

or certificate of registration

The application for a certificate of registration or license shall conclusively be deemed to be the consent of the applicant to the right of immediate entry and inspection of the premises sought to be registered or licensed by the commissioner or the commissioner's authorized representative at reasonable times. Refusal of such entry and inspection shall be grounds for denial of the certificate of registration or license. Notice need not be given to any person prior to inspection.

The acceptance of a license shall conclusively be deemed to be the consent of the licensee to the right of immediate entry and inspection of the licensed premises by the commissioner or the commissioner's authorized representative at reasonable times. Refusal of such entry and inspection shall be grounds for suspension or revocation of the license. Notice need not be given to any person prior to inspection.

a registrant, licensee or

47-1710. Release or disposition of animals from pound or shelter; use of proceeds from sale of animals. The governing body of a political subdivision regulating the operation of a pound shall determine the method of disposition of any animal released from such pound. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

The board of directors of any incorporated humane society operating an animal shelter as a pound, under contract with a municipality, shall determine the method of disposition of any animal released from its animal shelter. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the humane society and no part of such proceeds shall accrue to any individual.

An animal shall not be disposed of by an animal dealer, operator of a pound or operator of an animal shelter as a pound until after expiration of a minimum of three (3) days of custody during which the public has clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. Such an animal may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such animal was a gift animal to an animal shelter, or euthanized by a duly incorporated humane society or by a licensed veterinarian if it appears to an officer of such humane society or to such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose.

History: L. 1972, ch. 201, § 10; L. 1977, ch. 116, § 5; April 27.

47-1711. Dog warden; license as or employment by animal dealer or pet shop operator prohibited; record of taking custody and disposition. A dog warden shall not be granted an animal dealer's or a pet shop operator's license. Each application for an animal dealer's license or a pet shop operator's license shall include a statement that neither the applicant nor any of his employees is a dog warden. A dog warden, upon taking custody of any animal in the course of his official duties, shall immediately make a record which shall include the color, breed, sex, approximate weight and other description of the animal, the reason for seizure, the location of seizure, the owner's name and address, if known, the animal license number, and any other identification number. Complete information relating to the disposition of the animal shall be shown on the record; this shall be added immediately following the disposition of the animal.

History: L. 1972, ch. 201, § 11; July 1.

47-1712. Rules and regulations. (a) The commissioner is hereby authorized to adopt rules and regulations necessary for the administration of this act. Such rules and regulations shall include, but not be limited to, provisions relating to: (1) Reasonable treatment of animals in the possession, custody or care of a licensee or registrant or being transported to or from licensed or registered premises; (2) a requirement that each licensee and registrant file with the commissioner evidence that animals entering or leaving the state are free from any visible symptoms of communicable disease; (3) identification of animals handled; (4) primary enclosures; (5) housing facilities; (6) pounds; (7) research facilities; (8) sanitation; (9) euthanasia; (10) ambient temperatures; (11) feeding; (12) watering; (13) adequate veterinary medical care; (14) inspections of licensed or registered premises, investigations of complaints and training of persons conducting such inspections and investigations; (15) a requirement that each licensee keep and maintain, for inspection by the commissioner, such records as necessary to administer and enforce the provisions of this act; and (16) seizure and impoundment of animals by the commissioner.

— registrant and
— or

(b) The commissioner may adopt in whole or in part, the rules and regulations promulgated by the secretary of the United States department of agriculture pursuant to the provisions of the United States public law 91-579 (7 U.S.C. § 2131 et seq.), commonly known as the animal welfare act.

History: L. 1972, ch. 201, § 12; L. 1988, ch. 189, § 10; July 1.

47-1713. Prohibiting sale or gift of certain animals; health certificate required. The commissioner may prohibit the sale or gift within the state of animals or exotic pet animals which constitute a hazard to human health or safety or to animal health or safety.

Any animal or exotic pet animal sold by a pet shop operator licensed pursuant to the provisions of this act shall be accompanied by a written instrument issued by such pet shop operator on a form prescribed by the commissioner certifying that such animal is in sound health.

History: L. 1972, ch. 201, § 13; July 1.

47-1714.

History: L. 1972, ch. 201, § 14; Repealed, L. 1988, ch. 189, § 15; July 1.

47-1715. Violation of act or rules and regulations; penalty; seizure and disposition of animals, when. (a) Any violation of or failure to comply with any provision of this act, or any rule and regulation adopted hereunder, shall constitute a class A misdemeanor. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

(b) Upon a conviction of a person for any violation of this act, or any rule and regulation adopted hereunder, the court shall order the commissioner to seize and impound any animals in the convicted person's possession, custody or care 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 or euthanized, at the discretion of the commissioner. Costs of care ~~for~~ such animals while impounded shall be paid by the convicted person.

History: L. 1972, ch. 201, § 15; L. 1988, ch. 189, § 11; July 1.

47-1716.

History: L. 1972, ch. 201, § 16; Repealed, L. 1988, ch. 189, § 15; July 1.

47-1717. Invalidity of part. If any provision of this act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of the act, and the application of any such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected thereby.

History: L. 1972, ch. 201, § 17; July 1.

47-1718. Euthanasia, approved methods. (a) No animal shall be euthanized by any dog warden, officer of an animal shelter or officer of a pound by any means, method, agent or device, or in any way, except as follows:

(1) By administration of sodium pentobarbital, or any other barbiturate, or a euthanasia solution marketed under the trade name T-61, by any of the following methods and under the following conditions:

(A) Intravenous or intra-cardial injection of a lethal solution;

(B) oral ingestion by animals of powdered sodium pentobarbital in capsules mixed with food, with the animal remaining in its individual cage until dead (suited for use with vicious or intractable animals);

(C) intraperitoneal or intra-cardial injection in animals when location of and injection into the vein is difficult or impossible;

Euthanasia may be authorized by the commissioner if the animal is diseased, unsocialized or disabled beyond recovery for any useful purpose

placed,

and services for

seized and

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

(D) use of an undamaged hypodermic needle of a size suitable for the size and species of animal;

(E) administration to be only by or under the supervision of a licensed veterinarian.

(2) By the use of carbon monoxide gas administered in a tightly-enclosed chamber equipped with:

(A) Internal lighting and viewport providing direct visual observation of any animal within the chamber;

(B) a gas generation process adequate to achieve a carbon monoxide gas concentration throughout the chamber of at least five percent (5%) within five (5) minutes after any animal is placed in the chamber;

(C) a suitable gauge or gas concentration indicator or recording device making possible easy and instantaneous visual determination of the carbon monoxide concentration in the chamber;

(D) a means of cooling the gas, if from an internal combustion gasoline engine, to a temperature not exceeding one hundred fifteen (115) degrees fahrenheit at point of entry into the chamber and to one hundred (100) degrees at any point within the chamber, as determined by temperature gauges permanently installed at point of entry and inside the chamber;

(E) means of removing or filtering out all noxious fumes, irritating acids and carbon particles from the gas before it enters the chamber;

(F) if an internal combustion engine is used for gas generation, a means of substantially deadening the sound and vibration transmission from the engine to the chamber, by placing them in separate rooms or soundproof compartments and connecting them with a flexible tubing or pipe at least twenty-four (24) inches in length, so that the noise level within the chamber shall not exceed seventy (70) dBA;

(G) a means of keeping the animals in the chamber in separate compartments, except that young animals from the same litter may be placed in a single compartment with their female parent;

(H) an exhaust fan connected by a gas-tight duct to the outdoors, capable of completely evacuating the gas from the chamber before it is opened after each use, for the protection of personnel.

(3) Animals under six months of age, may be euthanized with chloroform, or with a mixture of chloroform and carbon dioxide by a means approved in writing by any licensed veterinarian after inspecting the equipment and method, provided the following requirements are observed:

(A) The animal to be euthanized must be placed in an individual cage or compartment in a small chamber or box having a tight seal, or in a transparent trash bag which can be closed tight after introduction of the chloroform:

(B) the chloroform, with the dose sufficient to euthanize the size of animal, shall be placed on a paper towel, piece of gauze or ball of cotton, and inserted into the chamber or bag in such a position that the animal shall not be able to come in direct contact with it;

(C) the chamber or box, if used, must have a viewport sufficient to permit unobstructed observation of the animal until dead;

(D) the animal must remain in the chamber or bag until rigor mortis has set in;

(E) the room in which the chloroform is administered must have forced ventilation to remove all fumes after each use, for the protection of personnel;

(F) if a mixture of chloroform and carbon dioxide is used, the carbon dioxide shall be from a cylinder of commercially-produced gas, with the gas introduced into the chamber immediately after introduction of the chloroform through a valve which produces only a minimum of noise and permits rapid distribution within the box, with an air vent at the top of the chamber to permit exit of displaced air.

(4) By shooting, or use of a captive-bolt pistol, provided all of the following requirements are met:

(A) The animal is restrained in a humane manner so as to make possible an accurate shot without the animal becoming unduly agitated;

(B) a weapon and ammunition of suitable caliber and other characteristics are used so as to produce death with a single shot to the brain, with the bullet entering the skull at a point approximately at the point where two lines drawn diagonally from each eye to the back of the opposite ear cross;

(C) adequate precautions are taken to avoid danger to other animals and to personnel by ricocheting bullets;

(D) a captive-bolt pistol may be substituted for gun and ammunition, to provide instantaneous unconsciousness by penetration of the skull and brain, to be followed by any suitable method of producing death if the animal is not dead as a result of such penetration.

(b) This section shall be part of and supplemental to article 17 of chapter 47 of the Kansas Statutes Annotated.

History: L. 1980, ch. 157, § 3; July 1.

47-1719. Hobby kennel operator certificate of registration. (a) On and after January 1, 1989, it shall be unlawful for any person to act as or be a hobby kennel operator unless such person has obtained from the commissioner a hobby kennel operator certificate of registration. Application for such certificate shall be made in writing on a form provided by the commissioner. The registration period shall be for the registration year ending on June 30 following the issuance date.

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

History: L. 1988, ch. 189, § 5; July 1.

47-1720. Research facility license. (a) On and after January 1, 1989, it shall be unlawful for any person to operate a research facility unless such person has obtained from the commissioner a research facility license. Application for such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

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

History: L. 1988, ch. 189, § 6; July 1.

47-1721. License and registration fees; costs of inspection; disposition of moneys. (a) Each application for issuance or renewal of a license or certificate of registration required under K.S.A. 47-1701 *et seq.* and amendments thereto shall be accompanied by the fee prescribed by the commissioner under this section. Such fees shall be as follows:

1) For a license for premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 *et seq.*), an amount not to exceed \$75.

(2) For a license for any other premises, an amount not to exceed \$150.

(3) For a certificate of registration, an amount not to exceed \$25.

(b) The commissioner shall determine annually the amount necessary to carry out and enforce K.S.A. 47-1701 *et seq.* and amendments thereto for the next ensuing fiscal year and shall fix by rules and regulations the license and registration fees for such year at the amount necessary for that purpose, subject to the limitations of this section. In fixing such fees, the commissioner may establish categories of licenses and registrations, based upon the type of license or registration, size of the licensed or registered business or activity and the premises where such business or activity is conducted, and may establish different fees for each such category. The fees in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the commissioner as provided by this subsection.

~~2-12~~

2-12

(c) If a licensee, registrant or applicant for a license or registration requests an inspection of the premises of such licensee, registrant or applicant, the commissioner shall assess the costs of such inspection, as established by rules and regulations of the commissioner, to such licensee, registrant or applicant.

(d) No fee or assessment required pursuant to this section shall be refundable.

(e) The commissioner shall remit all moneys received by or for the commissioner under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit it to the animal disease control fund.

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

History: L. 1988, ch. 189, § 12; July 1.

47-1722. Extension of required licensure date, when. (a) 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 amend-

ments 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) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.* and amendments thereto.

History: L. 1988, ch. 189, § 13; July 1.

47-1723 to 47-1730. Reserved.

NW

2-13

dealers act

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 continued 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.

47-1731. Dogs and cats; spaying or neutering required, when. (a) No dog or cat may be released for adoption from any pound or animal shelter, as defined by K.S.A. 47-1701 and amendments thereto, or from any duly incorporated humane society, unless:

(1) Such dog or cat has been first surgically spayed or neutered; or

(2) the adopting party signs an agreement to have the dog or cat spayed or neutered and deposits with the pound or animal shelter funds sufficient to ensure that the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered.

(b) No person shall spay or neuter any dog or cat for or on behalf of a pound, animal shelter or humane society unless such person is a licensed veterinarian. No pound, animal shelter or humane society shall designate the veterinarian which a person must use, or a list from which a person must select a veterinarian,

to spay or neuter a dog or cat adopted by such person from such pound, shelter or society, nor shall such pound, shelter or society in any way penalize a person for such person's selection of a veterinarian to spay or neuter a dog or cat adopted from such pound, shelter or society.

(c) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by a pound or animal shelter and which may be claimed by its rightful owner.

History: L. 1988, ch. 185, § 1; July 1.



KANSAS VETERINARY MEDICAL ASSOCIATION, INC.

712 South Kansas Avenue, Topeka, Kansas 66603, (913) 233-4141

FAX: (913) 233-2534

Dr. Russell Frey
President
2113 Blue Hills Road
Manhattan, Kansas 66502

Dr. Steve Mosier
President-Elect
3301 Elm
Hays, Kansas 67601

Dr. Mike Whitehair
Vice President
902 N. Olive Drive
Abilene, Kansas 67410

Dr. Terry Turner
Trustee-At-Large
909 Stone Street
Great Bend, Kansas 67530

Dr. Frank Fishburn
Treasurer
Rt. 7, Box 242F
Manhattan, Kansas 66502

Catharine A. Deever
Executive Director
712 South Kansas Avenue
Topeka, Kansas 66603

Senate Committee on Agriculture

Re: Senate Bill 78

Testimony by

Dr. Russell Frey, D.V.M., Ph.D. President

Among the American Veterinary Medical Association guidelines which govern the professional behavior of Kansas veterinarians is that which provides that:

Veterinarians should consider first the welfare of the patient for the purpose of relieving suffering and disability . . . The responsibilities of the veterinary profession extend not only to the patient but also to society. The health of the community as well as the patient deserves the veterinarians interest and participation . . .

It is because of these professional charges that we, the Kansas Veterinary Medical Association, support efforts which promote public health through effective veterinary medicine. We support the apparent intent of Senate Bill 78, which is to secure greater resources for serving the needs of companion animals. We believe, however, that the success of transferring the powers and duties of the livestock commissioner to the Department of Health and Environment will depend upon the allocation of proper funding for needed services, the establishment of clear and measureable inspection criteria and guidelines, and the appointment of a veterinarian with expertise in companion animal health to oversee program administration.

Senate Agriculture Committee

2-19-91

attachment 3



6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115
FAX: (913) 273-3399

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

February 19, 1991

TO: Senate Agriculture Committee, Senator Jim Allen, Chairman
FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division
RE: Senate Bill No. 78

Mr. Chairman and committee members, our interest in this bill relates to the Kansas Animal Health Department's ability to adequately and efficiently address health matters pertaining to the livestock industry. I believe the passage of SB 78 will help free up limited financial resources and agency personnel.

The Kansas Animal Health Department is primarily responsible for controlling or eliminating livestock diseases. The agency also registers brands, conducts brand inspections and aids law enforcement officials in investigating livestock thefts.

In 1988, the Kansas legislature passed significant legislation requiring the Kansas Animal Health Department to license, register and inspect dog and cat breeders. Since that time, there has been a significant amount of public pressure for the agency to aggressively regulate dog and cat breeders. Unfortunately, the agency has not received the funding that's necessary for a full scale, all encompassing regulatory program. To date, the agency has three inspectors and one half time clerk to handle the entire program. Because of these circumstances, we've seen two issues that impact our industry.

First, Dr. Walker spends a considerable amount of his time overseeing the companion animal program. The agency is already operating with one fewer Veterinary II positions and we would like to see him devote more of his time handling animal health issues relating to the livestock industry.

Secondly, and most importantly, the companion animal program has been subsidized by fees generated from the livestock industry. In fiscal year 1989, the agency "loaned" the companion animal program nearly \$46,000 from the animal disease control fund. To date, there has never been sufficient funds generated in the companion animal program to "pay back" these monies. According to the department, they have approximately \$23,000 left for the remainder of the 1991 fiscal year.

I believe the presence of the dog and cat inspection program in the Animal Health Department will always be a threat to bleeding the limited financial resources generated by the large animal industry. Removing the program from the Animal Health Department seems appropriate and timely. With that in mind, Mr. Chairman, we support SB 78. Thank you.

Senate Agriculture Committee
2-19-91
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PUBLIC POLICY STATEMENT

SENATE AGRICULTURE COMMITTEE

Re: S.B. 78 - Transferring duties of the Livestock
Commissioner
to the Secretary of Health and Environment

February 19, 1991

Topeka, Kansas

Presented By:
Warren Parker, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and members of the Committee:

My name is Warren Parker. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We appreciate this opportunity to make remarks concerning S.B. 78.

Our members, for the first time, this year have developed policy specifically regarding companion animals. It is our belief that whatever jurisdiction this business is under, it should be properly funded with inspection fees levied against kennel operators. We are encouraged by signs this past year of increased enforcement of the companion animal statutes. Under the present system the television news stories of poorly operated kennels have changed from views of problems to views of action as law enforcement agencies have shut down several poorly operated kennels.

*Senate Agriculture Committee
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Obviously more action is needed. But the enforcement activity started moving in the right direction in 1990.

One problem with the present system is that funds from large animal fees have traditionally gone to support the companion animal program. We oppose this. If the best way to solve this problem is by moving the companion animal program to the Health Division of the Kansas Department of Health and Environment, or the Attorney General, wherever, then we support such a move.

We simply feel that the companion animal program should be properly and reasonably funded to deal with those kennels which are substandard. Many livelihoods are supplemented or dependent upon the Kansas kennel industry. The majority of that industry is efficiently and well operated. However, recent problems created by the minority who do not operate as they should, have placed in jeopardy many livelihoods which are supplemented or dependent upon the Kansas kennel industry. The survival of this multi-million dollar state business is worthy of action.

We support the thrust and intent of S.B. 78. Thank you for the opportunity to make these brief comments. I would respond to questions if there are any.



KANSAS COMPANION ANIMAL ASSOCIATION
P. O. Box 3197 • Olathe, Kansas 66062
913-829-0102

February 18, 1991

VIA FAX # 913-296-1153

The Honorable Jim Allen
State Capitol
Topeka, Kansas 66612

RE: SB-78

Dear Senator Allen:

Since both our Vice President and I are unable to attend tomorrow's hearing on SB-78 in your Committee, I would like to submit this letter as our qualified support of moving the Companion Animal Program from the Livestock Commissioner to the Department of Health & Environment.

Our strong preference is to set up a separate, independent agency (much like the Lottery Commission or Racing Commission) to administer the "puppy mill" program, such as Rep. Nancy Brown's upcoming bill will propose. However, moving the program to KDHE will achieve our primary goal of separating this program for regulation of breeding pets away from livestock interests. We believe separating pets from food animals is absolutely critical to (1) the success of the puppy mill program, (2) diminishing outside criticism of Kansas's program, and (3) minimizing conflicts between urban and rural constituencies.

However, we do not support moving the program to the Agriculture Department, as some have proposed, or leaving it with the Livestock Commissioner. And to tell you the truth, I can't imagine why either of those entities would want to enter the no-win situation the puppy mill program would present them. By their very definitions, the words "livestock" and "agriculture" denote raising food for human consumption--certainly not the role pets fulfil in our society.

Thank you for your consideration of this important matter.

Sincerely,

KATHY McKEE, President

*Senate Agriculture Committee
2-19-91
attachment 6*

SENATE BILL NO. 78 - An act concerning animal dealers:

ANIMAL - a living being capable of feeling and voluntary motion/
a lower animal as distinguished from man.

LIVESTOCK - Animals kept for use and profit

COMMISSIONER - A person given a commission

COMMISSION - a warrant granting certain powers and imposing certain duties

Why are we attempting to take an act concerning keeping animals for profit, away from the livestock commissioner?

Why are we considering transferring the powers and duties of the livestock commissioner to the secretary of health and environment? The secretary is a secretary. The livestock commissioner, is a veterinarian.

VETERINARY - relating to, or being the medical care of animals and especially domestic animals

DOG - domestic animal

DOMESTIC - living near or about the habitation of man

We need a veterinarian in charge of this program. Someone that knows, loves, and understands animals. This act presently gives the livestock (animal health) commissioner, the authority to set the rules and regulations -- within statutory limits. We can not expect a secretary of human health and environment to know what is acceptable for animals.

The audit report of this program last summer simply states: Somebody didn't do the job. We now have a new animal health commissioner, plus, an advisory board was formed last October to help him.

The question is not whether the program should be moved, but how to properly fund it. The initial compliance of the law will take more money, than regular enforcement, once the program is stabilized.

We do not ask the licensed pharmaceutical companies to solely pay for the enforcement of the drug offenders, in our state. We can not expect the licensed kennels to solely pay for the wrong-doings of the non-licensed kennels. A law is a law. Where is the justice when we are not all treated equally?

This was a forty-three million dollar a year industry for the state of Kansas. We may be small potatoes compared to a few, but the small potatoes help make up the garden that feeds this state.

DO NOT move us away from the rest of the animals in our state. Give Dr. Walker the chance to make this program work, and the general funds to bring back this industry. The general fund money it will take to fund this program, (plus doubling our fees), will be nothing compared to the money, we as an industry can generate for this state.

Sharon Munk
-Sharon Munk, RR 1 Box 5, Menlo, KS 67746
913-855-2251
-USDA # 48-B-081 -KS State # 005-B

Senate Agriculture Committee
2-18-91
attachment 7

February 19, 1991

TO: Senator Jim Allen and committee members
Senate Agricultural Committee

RE: SB 78

The Kansas Federation of Humane Societies is opposed to SB 78 for the following reasons:

1. Dr. Walker, the new Livestock Commissioner, has been in his position for only a short period of time. We feel that Dr. Walker has been doing a good job so far, and would like to see him continue as Livestock Commissioner to oversee the enforcement of the 1988 Companion Animal Act for at least 18 more months. Dr. Walker has not yet had the opportunity to initiate any new actions on behalf of the Animal Health Department and we feel that he deserves a chance to prove his merit.
2. To transfer the powers and duties of the Livestock Commissioner to the department of Health and Environment would be very costly to the taxpayers of this state. Since under the direction of Dr. Walker there has been no incident or cause for this transfer, we feel that this would be a waste of the taxpayers money.
3. The Animal Health Department Advisory Board, appointed by the Govenor, has been meeting regularly to find ways and means of assisting the Animal Health Department in enforcement of the Companion Animal Act. With their support, the Animal Health Department will be stronger than in the past when the department was plagued by problems.
4. As you are aware, the pet industry in the state of Kansas has suffered due to problems in the enforcement of this law. It would only cause additional confusion to transfer this program and doing so would cause the industry even more harm.

We feel that the Animal Health Department's enforcement powers should remain as is until such time that this department proves that even with new leadership and support it cannot fulfill it's obligations and duties as set forth in the 1988 companion Animal Act.

Respectfully submitted,



Marcia Gitelman
Assistant Executive Director, Helping Hands Humane Society
Authorized representative, Kansas Federation of Humane Societies
2625 NW Rochester Road
Topeka, KS 66617
(913)233-7325

Senate agriculture Committee
2-19-91
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