

Approved March 24, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

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

9:15 a.m./~~pm~~ on Tuesday, March 17, 1992 in room 423-S of the Capitol.

All members were present except: Representative Wempe, Representative Neufeld,
Representative Heinemann and Representative Jennison
(all were excused)

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

Conferees appearing before the committee: Lana Oleen
State Senator
Manhattan

Roger B. Fingland, DVM, MS
Diplomate, American College of Veterinary
Surgeons
Head, Small Animal Surgery
Kansas State University

Nancy Longbrake
Wamego

Beverly Hashagen
Westmoreland

Hearings were opened on **SB 528** - concerning animals; relating to spaying or neutering dogs and cats.

Chairman Hamm explained to the committee that **SB 528** has been amended into **SB 752** which is a little controversial. Thus the reason for these hearings.

Senator Lana Oleen appeared before the committee and gave remarks on **SB 528**. She said she had the opportunity to tour the animal hospitals at Kansas State University and only hoped that humans were treated as well after having surgery as the animals having surgery there. She further stated she thought it very important that the students have the experience of the recovery process which they were not afforded in the past. Senator Oleen also provided copies of testimony on **SB 502** to the committee as she will be unable to attend the hearings on Wednesday, March 18, 1992. (Attachment 1).

Roger B. Fingland, DVM, testified before the committee in favor of **SB 528**. He explained to the committee how the Humane Society Spay/Neuter Program was developed and conducted. (Attachment 2).

Nancy Longbrake, Wamego, appeared before the committee in opposition to **SB 528**. Ms. Longbrake read portions of the federal regulations to the committee and urged the members to read all of the federal regulations at their leisure. (Attachment 3).

Beverly Hashagen, Westmoreland, testified before the committee in opposition to **SB 528**. Ms. Hashagen further stated she felt that Kansas State's only concern was saving money and that there was no benefit to the student or the animal from this practice.

Hearings were closed on **SB 528**.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE,
room 423-S, Statehouse, at 9:15 a.m. ~~xxx~~ on Tuesday, March 17, 1992.

The meeting adjourned at 9:47 a.m. The next meeting of the House Agriculture Committee will be held on Wednesday, March 18, 1992, at 9:00 a.m. in room 423-S, State Capitol.

LANA OLEEN
SENATOR, 22ND DISTRICT
RILEY AND GEARY COUNTIES



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

- CHAIRMAN: GOVERNMENTAL ORGANIZATION
LEGISLATIVE EDUCATIONAL PLANNING
- VICE-CHAIRMAN: CONFIRMATIONS
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March 17, 1992

TESTIMONY ON SB 502

HOUSE AGRICULTURE COMMITTEE

Chairman Hamm and Members of the Committee:

I appreciate the opportunity to appear before you today in support of SB 502.

The bill pertains to the continued support of the Kansas Value Added Center. The general mission of the KVAC is to promote the economic development of Kansas agri-businesses by providing very efficient coordination between those businesses, as well as advice in technical areas, marketing, and quality control. It has played a pivotal role in serving farmers, businesses and units of government in Kansas. It is especially important to note that the KVAC is one of the few economic development efforts that has been truly successful in rural areas.

Passage of this bill will ensure that KVAC will continue to better the economic conditions of agriculture related businesses, as well as the state of Kansas. I urge your favorable consideration of Senate Bill 502.

Senator Lana Oleen

LO/nj

*Hs. Ag.
3-17-92
ATTACHMENT 1*

Testimony before the House Agriculture Committee

Honorable Lee Hamm, Chairman

March 17, 1992

The principal pre-clinical surgical training for veterinary students occurs in the junior year during the Small Animal Surgery course. The Small Animal Surgery course includes 14 weekly 5-hour laboratory periods referred to as junior surgery laboratories. Historically, inanimate models and laboratory animals were utilized in the junior surgery laboratory. Owing to fiscal limitations and concern for humane treatment of animals, the number of live-animal laboratories was reduced and survival laboratories were eliminated. This noncompulsory alteration of the junior surgery laboratory curriculum, while a responsible and ethical change, created a deficit in surgical training of veterinary students. Specifically, the number of surgical procedures performed by each student was marginally acceptable for proper surgical training and the opportunity for students to gain experience in postoperative patient management was eliminated.

The Kansas State University, Humane Society Spay/Neuter Program (HSSNP) was developed to augment the junior surgery laboratory experience. The program was conducted during seven of the 14 junior surgery laboratory periods in the Fall 1991 semester (between October 21, 1991 and December 11, 1991.)

The HSSNP was designed to meet the following objectives

- 1) To assist junior veterinary students in developing surgical skills including pre- and post-operative patient management by reintroducing recovery experience to the laboratory.
- 2) To reduce the number of laboratory animals used in the teaching laboratory.
- 3) To enhance the symbiotic relationship between the College of Veterinary Medicine and area humane societies and animal shelters and to emphasize their commonality of purpose.
- 4) To serve the community by enhancing the adoptability of homeless animals. Animals included in this program are selected by the humane society or animal shelter as likely candidates for adoption.

Animals from area humane societies or animal shelters are transported to the College of Veterinary Medicine two days prior to the surgery laboratory. A team of four junior veterinary students is assigned to each animal and is responsible for the animals' care during hospitalization under the supervision of a senior faculty surgeon. Each animal receives a thorough physical examination and routine preoperative laboratory evaluations. A complete medical record, including results of twice-daily clinical evaluations, is maintained for each animal during the entire hospital stay. Surgery is performed by student surgeons under the direct participatory supervision of a senior faculty surgeon. Students care for the animals postoperatively; learning valuable lessons in anesthetic recovery, consequences of proper tissue handling, and normal tissue healing. The animals are returned to the humane society or animal shelter four days postoperatively. A certificate of sterilization and complete postoperative care instructions accompany each animal. Humane societies and animal shelters remunerate the College of Veterinary Medicine \$45 for each female and \$35 for each male that subsequently is adopted.

HS. AG.
3-17-92
ATTACHMENT 2

The 1991 HSSNP was quite successful. Students, faculty, administrators, and animal welfare organizations overwhelmingly believed the program accomplished its' objectives and exceeded expectations. We appreciate constructive criticism and concerns over the legitimacy of the HSSNP program initiated by a few individuals because we join them in insisting upon the highest standards of animal welfare. Recently, a complaint was forwarded to the USDA against Kansas State University for perceived improprieties in the procurement and utilization of random source animals for the HSSNP. Dr. Steve Swartz with the USDA inspected our facility and evaluated the HSSNP on February 25, 1992. Dr. Swartz found the KSU Veterinary Medical Teaching Hospital was in full compliance with federal law covering the use of animals from animal shelters.

The Kansas Veterinary Practice Act allows veterinary students to perform specific medical and surgical procedures as part of the veterinary curriculum. We believe procedures performed by junior veterinary students during the HSSNP are legitimate under the intent of this Act. Statute No. 47-1731 appears contradictory. The revision to No. 47-1731 before you eliminates perceived inconsistencies over the legality of the HSSNP while maintaining strict limitations on persons authorized to perform elective sterilization procedures on homeless animals.

I urge you to consider this legislation favorably.

Submitted by,

Roger B. Fingland, DVM, MS
Diplomate, American College of Veterinary Surgeons
Head, Small Animal Surgery

March 3, 1992

Proposed Testimony opposing Senate Bill 528, House Agriculture Committee, State Legislature of Kansas (To be presented when Senate Bill 528 is scheduled for hearing.)

We oppose the passing of Senate Bill 528 for all of the following reasons cited here as well as others that cannot be fully contained in this report and listed at this time.

Senate Bill 528 concerns the amending of K. S. A. 47-1731 to add Kansas State University to it for the purpose of "practice" by Vet students on live shelter pets that have the misfortune to be in the wrong place at the wrong time. 47-1731 has safeguards in it to prevent a monopoly attempt at vet. services while charging the public and not giving right of choice and to make sure that only licensed Vets do surgery now. These safeguards were put in to protect the animals from just what the amendment is about. An amendment to benefit KSU, save it money, satisfy the quick exposure by a "class " practice and charge the shelters per animal done that is adopted which then will be passed on to the new owners' adoption costs.. An amendment such as this put forth by an educational institution charged with the education of future Vets. (including ethics) is unthinkable...!

*see attached Bill

Fall '91--KSU Vet. School quietly entered into contract with 3 shelters and did an illegal program Spay/Neuter without regard to the K.S. A. 47-1731 that was in force. Also without any regard that these animals were or had recently been pets, and were not hatched out of eggs nor inanimate objects to be used and thrown away. Animals that already under stress from a new shelter environment,, new people, close confinements, and new animals in with them. The Statute very clearly states that Only licensed Vets. can do spay/neuters and the choice of vet. should be left to the new owner paying the adoption costs.. Taxpayers of Riley, Geary counties, nor contributors of the Helping Hands Humane Society, Shawnee County were never fully informed about the requirements or asked their opinions! Nor were they informed that KSU would be charging for the spay/neuter and passing the cost on to the consumers. It was not mentioned to the public that the KSU Vet. school would be saving money by not getting their special bred (federally licensed) dogs used for surgery because they have the needed physical characteristics usually needed for "practice"! From what we were told the Senate got a PR invitation but did not do any research to ascertain all the facts when they toured KSU. The Senate passed this bill 39 to 0.

It also was never mentioned that using lost, found, owned pets, and newly separated pets given up by owners is in direct disregard for the animals' health, welfare, stability, and also in direct opposition to the safeguards of the State and Federal Animal Welfare Laws. How can we ask the public to be responsible when the State, Vet. Schools, Animal Shelters and the Humane Society violate the very animal welfare requirements they ask the public to do?

**see attached letters (Fall 91)

HS. AG.
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ATTACHMENT 3

Spring'92 finds KSU Vet. School now attempting to amend K. S.A. 47-1731 so they can be legal and do as they want, again without true regard for the animals, the State and Federal Animal Welfare Law, but only their own needs.

***USDA--Federal Animal Welfare Act, Subchapter A, ANIMAL WELFARE 9 CFR Ch. 1 (1-1-90 Edition--pages 7-40) including the other listed citations, and some attached exhibits
(p. 11- 1:1, p.19 2:30 a (2) (c)-, p.21-2:31 (1) (2) (4) (6), p.22, p.23 e, 1,(2) (3) (4),p.26 (4) (8), p.27-2:38,p. 28, p. 29- 1 (!) (2) (3),p30-j-i-k, p.33-F 2:60, p.40-all)

These laws clearly show the conflicts and contradictions that any amendment to the present law of allowing "practice " would cause.

Section i (1) (2) (3) page 29 2:38 requires prior approval for a change in KSU program and the use of shelters for holding facilities for KSU makes them a part of KSU Research facility and a written agreement between any shelter and KSU gives KSU complete authority and control over the shelter as it becomes part of the federal licensed Research facility and subjects all such shelters to federal license and inspection.

**** see attached portion

page 40 2:38 ***** attached

Animals from a contracting shelter must be held 10 days not including time of movement. These institutions are not doing this as they already have a contract to kill Riley County animals and use it to teach students "practice". They already do not comply with the Federal laws now so who will observe and inspect weekly to see if they will comply with additional "practice" requirements. Yet animals in our area can cross one or two county lines in one day as well as being subjected to an organized theft ring operating every Spring and Fall that often dumps unusable animals in other areas. This 10 day period was designed to give the animal time for the owner to be able to look in all the places necessary and to advertise. There are 120 Labs in Kansas City alone.

The Riley County-Manhattan Health Department has run the Reitz Regional Animal Shelter since it was built in '88 with a \$200,000.00 bond issue voted in by the taxpayers. Animals go into a small 20 cage kennel room without windows, adequate ventilation, (both dog and cat room) and within 2 to 5 days are sick, having to be put to death, There is no outdoor exercise area. So a Health Department by failing to act even though they have funds is causing sickness, disease, and death. They could not pass the Federal inspection that they now must as a part of the contract with KSU for killing animals weekly. This shelter serves Manhattan, Odgen, other small towns, all of Riley County and in some cases others all by contracts which make all of these places subject to participation in a research facility--which the public paying for the shelter does not know. We think that the public that voted a bond issue to help the animals would be very upset to realize that it is now part of a research facility.

During conversations with APHIS animal Care Specialist, Dr. Daniel Jones DVM, Ap REAC ph. 817+885-6923. P.O. Box6258, Ft.Worth.Texas, 76115-6258, we find that this "practice" spay/neuter teaching involves many shelters and Humane societies ^{nat'l/wide} contracting with teaching institutions to practice on animals and that these shelters are under the total control of these institutions and part of the Research facility which includes (teaching, experiments, practice, or research) and is completely contrary to all animal welfare laws to date. Senate Bill ⁵²⁸ does not help or protect the animals but gives control to the teaching Research facility to promote a wider latitude of research and practice than so stated because no federal or state agency has the time nor manpower to biweekly or weekly observe that the animal standards of law are being met or that the law limits set are being obeyed at shelters or the teaching research institution, much less if any other research or type of practice is taking place. Also the shelter would not be under state licensing or inspection authority as their contracts make them part of the Research Institution. Shelters would be exempt from State authority.

Other basic reasons that Senate Bill 528 should not be passed include:

KSU is competing with private vets, and obtaining a monopoly in doing all shelter pets. Freedom of choice is being denied the consumer who has to pay for it.

Kansas ranks 9th on the National poverty list and the average wage is \$6 to \$11 thousand per year so consumers need right of choice. Spay/Neutering of animals in shelters does not mean that they will all be adopted, thousands of s/n animals die each year in shelters. Many of the animals done by KSU will not be adopted, but will be put through additional stress and trauma for nothing.

Just as consumers want to have the right of choice in Vets, they want some assurance that if something goes wrong later they can return to their own vet for help--not a place that did "practice" and where they do not know who or what was done.

KSU, shelters, and Helping Hands Humane Society clearly are undermining the very state and federal law that protects animals-- in this approach to spay/neutering and appear once again to want someone else to do their jobs instead of handling their own responsibilities.

Animal owners, Animal behaviorists, and Animal observers know and understand the stress and trauma of separation from an owner whether lost, found, stolen, dumped, or left at a shelter--this stress increases when subjected to a total new place, people, and other animals in close confinement for several days and then subjected to a second set of new stress-inducing factors with physical stress from major surgery. This can all produce such trauma that animals never learn to trust or adjust to new owners making them be re-abandoned or taken back to the shelter for a 2nd time.

Vets. employed by the State are exempt from licensing so in some situations a graduate student or other non licensed vet. could be used for teaching--who will know? (* Tom Vincent, State Vet. Medical License Board, ph.355+6358, Lakin)

State Liability factor of surgery on an owner pet which can happen. complications, allergy reactions, and needless reoperation of an animal that has already been spayed but the scar isn't visible. All of these routine surgical incidents happen and need more than a student "practicing".

Spay/neuter is counterproductive before adoption and inhumane. S/N animals are killed weekly because of shelter overfilling, lack of basic room for geographical area served, lack of adoption alternative programs, lack of shelter staff training on advertising and providing public professional tips on adoption or finding lost pets.

*****attached 21:4310 Basic Animal Welfare Law that is not complied with in this situation. If KSU truly cared about animals they *would* offer a low cost spay/neuter program open to anyone since the s/n problems are outin the community, not in the shelters.

Shelters also cull and discriminate in choosing animals for the S/n program, resulting in death earlierfor some that are just as deserving as those chosen.

All teaching institutions should have an intern ship program for Vet. students out in the real world so that they can get daily practice that will be retained and useful instead of limited class practice that will not be retained&is not going to improve skills.

It ia time to think of animals as living ~~a~~things , not throw aways for practice, to treat animals with common sense and reason, entitled to rights but not taken to extremes either way!

Nancy Longbrake

Nancy Longbrake

Route 3 Box 111
Wamego, Ks. 66547
Ph.456-7023

(Federal Law Research)

Beverly Hashagen
Director, Founder, Pet Hotline

Beverly Hashagen
16520 Pauling Run Box 103A
Westmoreland.Kansas 66549
Ph, 456-2592

(StateLaw research and AnimalBehavior)

Ethics, Lawfulness Of Dog Neuter Program Questioned Editor.

Pet Hotline, an animal services organization that works state and nationwide, has been informed by sources in northeastern Kansas that the KSU Vet School, Manhattan, has drawn up a program and made agreements with Junction City Animal Shelter, Manhattan Animal Shelter, and Topeka Animal Shelter to secure over 200 dogs a month.

These animals, lost, found, former pets and others would be used to practice spay/neuters on by vet students at KSU.

The KSU vet school would charge shelters \$45 to spay females and \$35 to neuter males. Those animals being adopted by the public would pay the increased charges on top of present fees. Those animals not adopted and being killed would not be charged for by KSU.

After studying this four-page document, Pet Hotline has determined it is not in the best interests of the animals, their welfare — because it decreases their chance for adoption, it places further stress on dogs already under stress from close confinement — causing them to appear more upset, and discriminates against individual animals as shelters will select animals based on their opinions of types rather than individuals — example — sending purebreds over mixed breeds.

This type of pound seizure for experimentation would save KSU money as they would not have to buy federally related animals bred for this purpose, and would make them money while costs would be passed on to the consumer and to the taxpayers.

The adoption fees already high would be unaffordable for a Kansas public already in economic crisis with the average Kansas salary being \$6,000 to \$11,000 per year, in a

state ranking ninth on the national poverty scale.

This program already begun last Friday with the Manhattan Shelter is not in the best interests of the animals, the consumer, nor any ethical educational institution.

At best it smacks of Pound Seizure and Experimentation and questions the ethics of all institutions involved, and at worst is not legal according to the State of Kansas Statutes as cited in Statute 47-1731, section 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 community penalize a person for such person's selection. . . ."

The state of Kansas has gone overboard playing politics with animals' and people's lives in the name of education.

Pet Hotline urges all decent people to call or write the President of KSU, Camile Nohe, Assist Attorney General (phone 913-296-2215), the Riley, Shawnee, and Geary county attorneys, and Dr. Walker, Commissioner of Animals, State Health Department (phone 913-296-2326). Please let them know that we stand up for our animals and our rights in Kansas.

Pet Hotline Inc.

1000 S. W. 10th St. Apt. 101
Ocala, FL 32177

Clarification About K-State Clinical Service To Area

Editor:

I wish to clarify misinformation in "Letters to the Editor," Oct. 19 by Pet Hotline Inc., Westmoreland, concerning the KSU College of Veterinary Medicine's teaching and clinical services provided the Junction City, Manhattan and Topeka Animal Shelters.

Following the examples of very successful programs in other states, these local animal shelters have joined with practicing veterinarians in the community and the veterinarians at KSU-Veterinary Medical Teaching Hospital (KSU-VMTH) in attempting to address the issue of large numbers of unwanted (stray) dogs and cats in our communities.

A sound and workable solution to this problem is to provide neutered pets for

adoption from these shelters. While experience tells us that every dog and cat in animal shelters will not be adopted, more of them will be if they are healthy and neutered.

Please understand that the animal shelters require that the animal be spayed or neutered at the owner's expense.

Citizens have agreed to support caring for captured stray pets for several days in community shelters, but taxpayers have not agreed to pay for neutering, i.e. there are no local or state funds allocated to the shelters or the College to provide for neutering animals in community shelters.

As part of their community service, many practicing veterinarians and the KSU-VMTH have made arrangements to provide "least cost" health checks and neutering surgeries for these homeless pets.

"Hotline" incorrectly reported that the KSU-VMTH

fees for health checks and neutering surgeries increase the cost of adopting pets from the community shelters.

In fact, the total fee (including neuter, which is required) is less in most instances, and the new pet owners do not have the bother or risk of arranging to have their adopted pet neutered.

It is true that KSU veterinary students do indeed take part in the health checks and neutering procedures. Their participation is always under the direct supervision of a licensed veterinary surgeon.

We place highest priority on the well-being of all animals brought to the KSU-VMTH, and all patients in this hospital are under the direct care of a licensed veterinarian on our faculty.

Kansas law permits veterinary students to carry out veterinary care under the supervision of faculty in the Veterinary College or working under supervision of a licensed veterinarian (State of Kansas Statute 47-817).

KSU-VMTH involvement is not "experimentation," as suggested by Hotline; instead all procedures are under the direct supervision of a licensed veterinarian, done for the benefit of our community, are a wise use of State resources, increases the learning opportunities for veterinary students and improves the chances of dogs in shelters of finding new homes.

All animals included in this program are returned to the animal shelters for adoption.

These programs have been enthusiastically endorsed by animal shelters, humane societies, and the veterinary profession across the country. We are pleased to incorporate the program within our curriculum since it is mutually beneficial to us and our respective communities.

Jerry R. Gillespie, DVM, PhD
Head of Department of
Clinical Sciences and
KSU-Veterinary Medical
Teaching Hospital

Letters To The Editor

Gross Inaccuracies In Pet Letter

Editor:

I feel that I must respond to the gross inaccuracies and false misrepresentations made in the Oct. 29, 1991 letter that you printed from the Pet Hotline Inc.

The KSU veterinary school is doing a huge favor for our shelter and two others. Animals that would normally not be adopted and subsequently euthanized are being given a second, and better, chance at a new life.

This program has been very successful so far. The Pet Hotline's statement that our adopters face increased adoption fees is false. It is far more cost effective for the animals to be heartworm checked and sterilized at KSU than for the adopter to pay the standard prices for these services at a local hospital.

For example, to adopt an 80-pound female dog at our regular price the fee for the spay, heartworm check, and adoption donation would be \$100. To adopt one that had been sterilized by KSU the fee would be \$67.

How can the adopter possibly be paying more for a dog

that has benefited from this program?

Pet Hotline's allegations that this program is not in the best interest of the animals is ludicrous.

This program greatly increases the chances of adoption for these animals, not decreases as the Hotline says, because the animals are now more affordable.

This program reduces the number of animals that we must euthanize. None of the 33 animals that to date have participated in this program have exhibited any signs of stress or discomfort as is alleged by this letter.

I wonder how such statements can be made by a person who has no first-hand knowledge of this program. In addition, charges that animals are discriminated against are completely false. We select the animals who, without this program, are already discriminated against due to the cost of sterilization.

The KSU program narrows the discrepancies of cost between various dogs and therefore makes a fairer and more equitable situation for all the animals.

Referring to this program as Pound Seizure and Experi-

mentation is not only insulting but also a lie. Pound seizure is when animals are purchased from a pound or animal shelter and not returned.

KSU is to be commended for following the new direction that animal welfare, veterinary hospitals, and governments across the country are taking by initiating low cost spay/neuter programs to help solve the pet overpopulation problem that is at a crisis level throughout the United States.

In addition this is not against the law as indicated by the Pet Hotline. I have been assured by KSU that their legal counsel has stated that the Practice Act of Kansas allows for veterinary students to perform such surgeries under the direction of licensed veterinarians.

In addition, licensed veterinarians are scrubbed into the surgeries and work alongside the students.

Finally, I have personal knowledge of the Pet Hotline and to state that it is a national program is a gross overstatement. In addition, the Pet Hotline Ranch which attempts to compete with recognized humane societies by such antagonistic means as this letter is an unlicensed, illegal facility as defined under K.S.A. 1990 Supp. 47-1704.

I am surprised to learn that they are encouraging your readers to write to Animal Health Commissioner Dr. Dan Walker since it is his duty and responsibility to license all animal shelters in this state.

Due to the numerous problems that have plagued the Animal Health Department in recent times I would assume that their time would be better spent bringing such illegal operations into compliance rather than going on a wild goose chase.

Any person concerned with the details of this program and would like more information is welcome to contact me at the Helping Hands Humane Society, 913-233-7325.

As president of the Kansas Federation of Humane Societies, and having been appointed to the Kansas Companion Animal Advisory Board by Gov. Joan Finney, I feel much more qualified to debate such issues than the

author of such an erroneous document.

Marcia Gitelman
Assistant Executive
Director, H.H.H.S.
TOPEKA

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T

Reader Responds To KSU Cost For Spay/Neuter Program

Dear Editor:

After reading all three letters pertaining to KSU Vet Med Shelter Spay/Neuter program I would like to voice my opinion and several facts. Dr. Gillespie should be made aware of the policy and procedure of the ASPCA and other shelters. Animals are adopted, fees are paid, and before the animal goes home with the new owner, they are spayed/neutered. This procedure includes all adopted animals (including puppies & kittens) not just specific ones. This way no animal is put under unnecessary stress of the surgery, only adopted animals are spayed/neutered. The success of this program has been incredible. Puppies and kittens recover quickly, suffer less stress than adult animals, and death is minimal. I do believe the cost at KSU is prohibitive to the animals welfare and is discriminatory (what about cats and smaller dogs). Before this, an adopted animal had 30 days to be spayed/neutered, which allowed the cost to be divided between two or more paychecks. At time of adoption the fee was \$50-55 (included a \$25 spay/neuter deposit

refunded after proof of surgery, & a \$10 rabies vaccination deposit also

refunded). Currently at time of adoption for a program animal the fee is \$60-75. It is true that in the long run the cost is less but the total is due at time of adoption. I do not believe it increases the chances for adop-

tion of these animals as there are always "free" animals in the paper. Hundreds (possible thousands) of spayed/neutered animals are euthenized in shelters weekly. Our area shelters are no exception. What happens to these dogs if not adopted? Will they be euthenized or used for further practice surgeries? There is no guarantee a teaching veterinarian is licensed. A veterinarian that works for the state doesn't have to be licensed. In a room of 12-14 tables how many licensed veterinarians are there? One for each table or one for the entire

room? I feel that if KSU Vet. Med. really wanted to help the community

Letter To The Editor

and the animals, the cost would be lowered and open to all. Many people can afford a \$15-25 spay/neuter. Few can afford the currently price of \$60-80. A community service would be a low/cost spay/neuter clinic in our

area. People would come from all around to use this type of service and profit would be made on volume. I am all for spay/neuter, every animal I have ever rescued and all of my own pets are spayed/neutered. I am also for eliminating "dog labs," a process where animals (in states that allow pound seizure these were someone's pets) are subjected to numerous (and painful) surgeries at the hand of inexperienced students and then killed. Not only do our tax dollars support shelters, they support universities and fund experimentation.

In response to Marcia Gitelman's statement that PHL "is a national program is a gross overstatement." I wonder what the Pet Hotline members in 40 states are thinking. Also since PHL has no personal knowledge of this woman, how does she have personal knowledge of PHL? Perhaps it is only heresay. PHL doesn't attempt to compete with Humane Societies. PHL never kills animals because they don't get adopted as do shelters, pounds, and Humane Societies. According to PHL, they studied the four-page document and if these don't give them first-hand knowledge, I wonder what does. As licensing is confidential, how does this woman know if PHL is licensed or not? Puppy mills are licensed and even illegal ones are operating. Wouldn't this be a good place to start prosecuting instead of an organization that is devoted to abused/abandoned/lost/found pets? PHL Ranch is not a shelter, pound, or Humane Society. The Ranch is an "animal care sanctuary" devoted to unfortunate animals and retains the right to refuse adoption, among other

stringent guidelines not imposed by other agencies. If there isn't a separate statute for this classification, then there should be. The animals at PHL Ranch are happy and healthy. They have good care, warm, comfortable houses, fresh water, good food and plenty of fresh air. How much can we accomplish if we work together instead of fighting against each other?

Troy Lynn Eckart
Rt. 3
St. George, KS

ing an auction at which animals are purchased or sold in commerce.

Outdoor housing facility means any structure, building, land, or premise, housing or intended to house animals, which does not meet the definition of any other type of housing facility provided in the regulations, and in which temperatures cannot be controlled within set limits.

Painful procedure as applied to any animal means any procedure that would reasonably be expected to cause more than slight or momentary pain or distress in a human being to which that procedure was applied, that is, pain in excess of that caused by injections or other minor procedures.

Paralytic drug means a drug which causes partial or complete loss of muscle contraction and which has no anesthetic or analgesic properties, so that the animal cannot move, but is completely aware of its surroundings and can feel pain.

Person means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

Pet animal means any animal that has commonly been kept as a pet in family households in the United States, such as dogs, cats, guinea pigs, rabbits, and hamsters. This term excludes exotic animals and wild animals.

Positive physical contact means petting, stroking, or other touching, which is beneficial to the well-being of the animal.

Primary conveyance means the main method of transportation used to convey an animal from origin to destination, such as a motor vehicle, plane, ship, or train.

Primary enclosure means any structure or device used to restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, pool, hutch, or tether. In the case of animals restrained by a tether (e.g., dogs on chains), it includes the shelter and the area within reach of the tether.

Principal investigator means an employee of a research facility, or other person associated with a research facility, responsible for a proposal to conduct research and for the design

and implementation of research involving animals.

Quorum means a majority of the Committee members.

Random source means dogs and cats obtained from animal pounds or shelters, auction sales, or from any person who did not breed and raise them on his or her premises.

Registrant means any research facility, carrier, intermediate handler, or exhibitor not required to be licensed under section 3 of the Act, registered pursuant to the provisions of the Act and the regulations in part 2 of this subchapter.

Research facility means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals in commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided*, That the Administrator may exempt, by regulation, any such school, institution, organization, or person that does not use or intend to use live dogs or cats, except those schools, institutions, organizations, or persons, which use substantial numbers (as determined by the Administrator) of live animals the principal function of which schools, institutions, organizations, or persons, is biomedical research or testing, when in the judgment of the Administrator, any such exemption does not vitiate the purpose of the Act.

Retail pet store means any outlet where only the following animals are sold or offered for sale, at retail, for use as pets: Dogs, cats, rabbits, guinea pigs, hamsters, gerbils, rats, mice, gophers, chinchilla, domestic ferrets, domestic farm animals, birds, and cold-blooded species. Such definition excludes—

(1) Establishments or persons who deal in dogs used for hunting, security, or breeding purposes;

(2) Establishments or persons exhibiting, selling, or offering to exhibit or sell any wild or exotic or other nonpet species of warmblooded animals

Subpart B—Registration

§ 2.25 Requirements and procedures.

(a) Each carrier and intermediate handler, and each exhibitor not required to be licensed under section 3 of the Act and the regulations of this subchapter, shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the APHIS, REAC Sector Supervisor. The registration form shall be filed with the APHIS, REAC Sector Supervisor for the State in which the registrant has his or her principal place of business, and shall be updated every 3 years by the completion and filing of a new registration form which will be provided by the APHIS, REAC Sector Supervisor.

(b) A subsidiary of a business corporation, rather than the parent corporation unless the subsidiary is under such direct control of the parent corporation that the Secretary determines that it is necessary that the parent corporation be registered to effectuate the purposes of the Act.

§ 2.26 Acknowledgment of regulations and standards.

APHIS will supply a copy of the regulations and standards in this subchapter with each registration form. The registrant shall acknowledge receipt of and shall agree to comply with the regulations and standards by signing a form provided for this purpose by APHIS, and by filing it with the APHIS, REAC Sector Supervisor.

§ 2.27 Notification of change of operation.

(a) A registrant shall notify the APHIS, REAC Sector Supervisor by certified mail of any change in the name, address, or ownership, or other change in operations affecting its status as an exhibitor, carrier, or intermediate handler, within 10 days after making such change.

(b)(1) A registrant which has not used, handled, or transported animals for a period of at least 2 years may be placed in an inactive status by making a written request to the APHIS, REAC Sector Supervisor. A registrant shall notify the APHIS, REAC Sector Su-

pervisor in writing at least 10 days before using, handling, or transporting animals again after being in an inactive status.

(2) A registrant which goes out of business or which ceases to function as a carrier, intermediate handler, or exhibitor, or which changes its method of operation so that it no longer uses, handles, or transports animals, and which does not plan to use, handle, or transport animals again at any time in the future, may have its registration canceled by making a written request to the APHIS, REAC Sector Supervisor. The former registrant is responsible for reregistering and demonstrating its compliance with the Act and regulations should it start using, handling, or transporting animals at any time after its registration is canceled.

Subpart C—Research Facilities

§ 2.30 Registration.

(a) *Requirements and procedures.* (1) Each research facility other than a Federal research facility, shall register with the Secretary by completing and filing a properly executed form which will be furnished, upon request, by the APHIS, REAC Sector Supervisor. The registration form shall be filed with the APHIS, REAC Sector Supervisor for the State in which the research facility has its principal place of business, and shall be updated every 3 years by the completion and filing of a new registration form which will be provided by the APHIS, REAC Sector Supervisor. Except as provided in paragraph (a)(2) of this section, where a school or department of a university or college uses or intends to use live animals for research, tests, experiments, or teaching, the university or college rather than the school or department will be considered the research facility and will be required to register with the Secretary. An official who has the legal authority to bind the parent organization shall sign the registration form.

(2) In any situation in which a school or department of a university or college demonstrates to the Secretary that it is a separate legal entity and its operations and administration

the time the research facility is registered, the Department will assign identification letters and numbers to be used on the official tags.

(8) Each research facility shall be held accountable for all official tags acquired. In the event an official tag is lost from a dog or cat while in the possession of a research facility, the facility shall make a diligent effort to locate and reapply the tag to the proper animal. If the lost tag is not located, the research facility shall affix another official tag to the animal in the manner prescribed in this section and record the tag number on the official records.

(9) When a dog or cat wearing or identified by an official tag arrives at a research facility, the facility may continue to use that tag to identify the dog or cat or the tag may be replaced as indicated in paragraph (g)(1) of this section. All tags removed by a research facility shall be retained and disposed of as indicated in this section.

(10) Where a dog or cat to which is affixed or which is identified by an official tag is euthanized, or dies from other causes, the research facility shall remove and retain the tag for the required period, as set forth in paragraph (g)(11) of this section.

(11) All official tags removed and retained by a research facility shall be held until called for by an APHIS official or for a period of 1 year.

(12) When official tags are removed from animals for disposal, the tags must be disposed of so as to preclude their reuse for animal identification. No animal identification number shall be used within any 5-year period following its previous use.

(h) *Health certification.* (1) No research facility, including a Federal research facility, shall deliver to any intermediate handler or carrier for transportation, in commerce, or shall transport in commerce any dog, cat, or nonhuman primate unless the dog, cat, or nonhuman primate is accompanied by a health certificate executed and issued by a licensed veterinarian. The health certificate shall state that:

manufacturer who desires to be included in the list should notify the Administrator.

(1) The licensed veterinarian inspected the dog, cat, or nonhuman primate on a specified date which shall not be more than 10 days prior to the delivery of the dog, cat, or nonhuman primate for transportation; and

(ii) When so inspected, the dog, cat, or nonhuman primate appeared to the licensed veterinarian to be free of any infectious disease or physical abnormality which would endanger the animal(s) or other animals or endanger public health.

(2) The Secretary may provide exceptions to the health certification requirement on an individual basis for animals shipped to a research facility for purposes of research, testing, or experimentation when the research facility requires animals not eligible for certification. Requests should be addressed to the Administrator, APHIS, USDA, Room 268, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

(3) The U.S. Interstate and International Certificate of Health Examination for Small Animals (VS Form 18-1) may be used for health certification by a licensed veterinarian as required by this section.

(i) *Holding of animals.* If any research facility obtains prior approval of the APHIS, REAC Sector Supervisor, it may arrange to have another person hold animals: *Provided, That:*

(1) The other person agrees, in writing, to comply with the regulations in this part and the standards in part 3 of this subchapter, and to allow inspection of the premises by an APHIS official during business hours;

(2) The animals remain under the total control and responsibility of the research facility; and

(3) The Institutional Official agrees, in writing, that the other person or premises is a recognized animal site under its research facility registration. Veterinary Services Form 18-9 shall be used for approval.

(j) *Holding period.* Research facilities that obtain dogs and cats from sources other than dealers, exhibitors, and exempt persons shall hold the animals for 5 full days, not including the day of acquisition, after acquiring the animal, excluding time in transit, before they may be used by the facility.

§ 2.132

§ 2.132 Procurement of random source dogs and cats, dealers.

(a) A class "B" dealer may obtain live random source dogs and cats only from:

(1) Other dealers who are licensed under the Act and in accordance with the regulations in part 2;

(2) State, county, or city owned and operated animal pounds or shelters; and

(3) A legal entity organized and operated under the laws of the State in which it is located as an animal pound or shelter, such as a humane shelter or contract pound.

(b) A class "B" dealer shall not obtain live random source dogs and cats from individuals who have not bred and raised the dogs and cats on their own premises.

(c) Live nonrandom source dogs and cats may be obtained from persons who have bred and raised the dogs and cats on their own premises, such as hobby breeders.

(d) No person shall obtain live random source dogs or cats by use of false pretenses, misrepresentation, or deception.

(e) Any dealer, exhibitor, research facility, carrier, or intermediate handler who also operates a private or contract animal pound or shelter shall comply with the following:

(1) The animal pound or shelter shall be located on premises that are physically separated from the licensed or registered facility. The animal housing facility of the pound or shelter shall not be adjacent to the licensed or registered facility.

(2) Accurate and complete records shall be separately maintained by the licensee or registrant and by the pound or shelter. The records shall be in accordance with §§ 2.75 and 2.76, unless the animals are lost or stray. If the animals are lost or stray, the pound or shelter records shall provide:

(i) An accurate description of the animal;

(ii) How, where, from whom, and when the dog or cat was obtained;

(iii) How long the dog or cat was held by the pound or shelter before being transferred to the dealer; and

(iv) The date the dog or cat was transferred to the dealer.

(3) Any dealer who obtains or acquires a live random source dog or cat from a private or contract pound or shelter, including a pound or shelter he or she operates, shall hold the dog or cat for a period of at least 10 full days, not including the day of acquisition, excluding time in transit, after acquiring the animal, and otherwise in accordance with § 2.101.

public utility providing telephone communications service is notified in writing by a state or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used principally for the purpose of transmitting or receiving gambling information, it shall discontinue or refuse the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any such public utility for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a court of competent jurisdiction, that such facility should not be discontinued or removed, or should be restored.

Installing communications facilities for gamblers is a class E felony.

History: L. 1969, ch. 180, § 21-4308; July 1, 1970.

Source or prior law:

21-915, 21-916, 21-917, 21-923, 21-924, 21-933, 21-934, 21-1501, 21-1502, 21-1504, 21-1505, 21-1506, 21-1507, 21-1508, 21-1510.

Judicial Council, 1968: Under subsection (a) the offender must know the place in which he installs the communication facilities is a gambling place, *i.e.*, a structure, one of whose principal uses is for making and settling bets, receiving, holding, recording or forwarding bets or offers to bet, conducting lotteries, or playing gambling machines.

Under subsection (b) the offender must know that the communication facilities he installs will be used principally for the purpose of transmitting information to be used in making or settling bets.

In subsection (c) the offender must allow the continued use of his communication facilities with knowledge that they are being used principally to transmit information to be used in making or settling bets.

Revisor's Note:

Proviso in subsection (c) not included in proposed criminal code by judicial council.

21-4309. False membership claim. A false membership claim is falsely representing oneself to be a member of a fraternal or veteran's organization.

False membership claim is a class C misdemeanor.

History: L. 1969, ch. 180, § 21-4309; July 1, 1970.

Source or prior law:

21-1307, 21-1308.

21-4310. Cruelty to animals. (1) Cruelty to animals is:

(a) Intentionally killing, injuring, maiming, torturing or mutilating any animal;

(b) abandoning or leaving any animal in any place without making provisions for its proper care; or

(c) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal.

(2) The provisions of this section shall not apply to:

(a) Normal or accepted veterinary practices;

(b) bona fide experiments carried on by commonly recognized research facilities;

(c) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(d) rodeo practices accepted by the rodeo cowboys' association;

(e) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter or pound, local or state health officer or licensed veterinarian three (3) business days following the receipt of any such animal at such society, shelter or pound;

(f) with respect to farm animals, normal or accepted practices of animal husbandry;

(g) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property; or

(h) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods.

(3) Cruelty to animals is a class B misdemeanor.

History: L. 1969, ch. 180, § 21-4310; L. 1974, ch. 148, § 1; L. 1975, ch. 198, § 1; L. 1977, ch. 116, § 2; L. 1980, ch. 182, § 4; L. 1980, ch. 157, § 1; July 1.

Source or prior law:

21-1201, 21-1202, 21-1203.

Judicial Council, 1968: Subsection (1) is substantially the Model Penal Code, 250.11. It is suggested in lieu of the former law which covered the same substance but was somewhat more complex. Subsection (2), in part, follows former K.S.A. 21-1203. There are no specific provisions in the section for appraisal and liability to the owner. However, it is assumed that the owner would be able to recover for the wrongful destruction of his animal, even in the absence of express provisions.

Cross References to Related Sections:

Damages for cruelty to domestic animals, see 29-409.

CASE ANNOTATIONS

1. Cockfighting does not fall within the prohibitions of this section. *State, ex rel., v. Claiborne*, 211 K. 264, 265, 266, 268, 269, 505 P.2d 732.

2. Upon question reserved, it is held that exception in 21-4310(2)(g) does not apply to prosecutions under 21-3727. *State v. Jones*, 229 K. 528, 529, 530, 625 P.2d 503.

21-4311. Same; custody of animal; disposition; damages for killing, when; expenses of care assessed owner, when. (1) Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, for humane killing.

(2) The owner or custodian of an animal killed pursuant to subsection (1) of this section shall not be entitled to recover damages for the killing of such animal unless the owner proves that such killing was unwarranted.

(3) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection (1) of this

section, pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(4) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

History: L. 1977, ch. 116, § 3; April 27.

21-4312. Unlawful disposition of animals. (1) Unlawful disposition of animals is raffling, giving as a prize or premium or using as an advertising device or promotional display living rabbits or chickens, ducklings or goslings, but shall not include the giving of such animals to minors for use in agricultural projects under the supervision of commonly recognized youth farm organizations.

(2) Unlawful disposition of animals is a class C misdemeanor.

History: L. 1977, ch. 116, § 4; April 27.

21-4313. Definitions. As used in this act [°], unless the context otherwise requires;

(1) "Animal" means every living vertebrate except a human being.

(2) "Farm animal" means an animal raised on a farm or ranch and used or intended for use as food or fiber.

(3) "Retailer" means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.

(4) "Wild animal" means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.

(5) "Domestic pet" means any domesticated animal which is kept for pleasure rather than utility.

History: L. 1977, ch. 116, § 1; April 27.

* "This act," see also, 21-4310 to 21-4312, 47-1710.

21-4314. Sections part of criminal