

Approved: Eugene L. Shore 1-29-93
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Eugene Shore at 9:05 a.m. on January 20, 1993 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Kay Johnson, Committee Secretary

Conferees appearing before the committee: Jill Wolters, Revisor of Statutes
Dr. Russ Frey, Kansas Veterinary Medical Association
Larry D. Woodson, Director, Division of Inspections

Chairman Shore called the meeting to order and explained the purpose of today's meeting is the introduction of committee bills as requested by individuals and/or agencies. First, committee minutes of January 12, 13, 14 and 15, 1993 were distributed. If no corrections are received by Monday, January 25, 1993, the minutes will be considered approved. Next, the Chairman asked members to review the Committee Rules, attachment #1. Representative Reinhardt questioned rule #2 asking if that meant bills could not be amended in committee. Chairman Shore responded he thought it should read that amendments to substitute motions are not in order. Representative Bryant explained the process is less confusing if the original motion is withdrawn and a new motion made or substitute motions are used. The Chairman said he would get clarification of this rule.

Jill Wolters addressed the committee and explained the two proposed corporate farming bills. The first bill, proposed by Chairman Shore, would amend the corporate farming statutes to allow swine production facilities to open in Kansas. The intent of the bill is to put swine production facilities on an equal playing field with feed lots. Representative Gatlin made a motion to introduce this as a committee bill. Representative Lloyd seconded the motion. The motion carried.

The second bill, proposed by Representative Rezac, would be like the "Initiative 300" bill adopted in Nebraska. Ms. Wolters explained this would be a constitutional amendment and would have to be voted on favorably by two-thirds of the Legislature and then would go to the voters of Kansas. The bill would prohibit corporate farming, corporate swine facilities and corporate feedlots. It has a grandfather clause to protect current owners. Representative Rezac made a motion to introduce this as a committee bill. Representative Rutledge seconded the motion. The motion carried.

Chairman Shore stated the Board of Veterinary Examiners had a bill request, attachment #2. Ms. Wolters explained it would encompass a statute update and policy changes. Dr. Russ Frey, Kansas Veterinary Medical Association, explained this is an amended version of **HB 3189** that was introduced late last session. Representative Reinhardt made a motion to introduce this as a committee bill. Representative Neufeld seconded the motion. The motion carried.

Chairman Shore explained he had been requested to introduce a deer and elk farming bill so that people who raise these animals commercially could be placed under the jurisdiction of the State Board of Agriculture instead of the Wildlife and Parks Department. Representative Neufeld made a motion to introduce this as a committee bill. Representative Lawrence seconded the motion. Representative Reinhardt stated the Animal Health Department might be more appropriate. Representative Neufeld said he thought all exotic animals should be placed under the same jurisdiction for consistency. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:05 a.m. on January 20, 1993.

Larry D. Woodson, Director of the Division of Inspections, addressed the committee with proposed administrative and technical changes to K.S.A. 65-6a27, attachments #3 and #4. Representative Gatlin made a motion to introduce this as a committee bill. Representative Goodwin seconded the motion. The motion carried.

Representative Swall asked if someone could present to the committee how corporate farming relates to overall economic development fundamentals in Kansas. The Chairman said he thought that was a good idea and would look into it.

The meeting adjourned at 9:30 a.m. The next meeting is scheduled for January 21, 1993.

COMMITTEE RULES

1. A substitute motion is in order, but no additional substitute motion shall be in order until the prior substitute motion is disposed.
2. Amendments to motions are not in order.
3. A motion requires a second to be in order.
4. A motion to take from the table shall be in order only when such item is on the agenda or is taken up by the chair. The motion requires a simple majority and is non-debatable.
5. No conferee shall be interrupted during presentation of their testimony, except with the permission of the chair.
6. Questioning of a conferee shall be limited to the subject matter of the agenda for the day.
7. Granting excused absences is reserved to the chair.
8. A request from any member that their own vote be recorded shall be granted.
9. All conferees are requested to submit enough copies of written testimony for all committee members and staff.
10. Smoking is prohibited in committee rooms.
11. Adjournment is reserved to the chair.
12. In any case where committee rules do not apply, House Rules shall govern. All powers, duties and responsibilities not addressed above are reserved to the chair.

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ATTACHMENT #1



FROM:

Board of Veterinary Examiners

TO: Members of the Kansas Legislature

We, members of the State of Kansas Board of Veterinary Examiners, as citizens of Kansas, appointed by the Governor, sworn to oath, and charged with protecting the public health, safety and welfare, ask the legislature to consider the following changes in the Kansas veterinary practice act, to enable the board to effectively supervise the practice of veterinary medicine as charged in KSA 47-821(b).

This is a brief explanation of the content and reason for proposed amendments and additions to the practice act.

- 1) Charged with both investigation and hearing duties the board is in need of 2 additional members to function properly.
- 2) 11 new definitions will make interpreting the content of the law much easier for licensees and attorneys alike. Some of these are also to bring the law up to current terminology such as "Doctor/Client/Patient" relationship which is used in many definitions today.
- 3) Uniformity of licensing can be accomplished by licensing by endorsement and the addition of a jurisprudence examination for all licensees promotes better understanding of the law. Also a provision for foreign graduates.
- 4) From a system today of: revoke, suspend or dismiss, the powers of the board are increased to also: limit, condition, reprimand, restrict or fine as additional disciplinary actions are badly needed.
- 5) The establishment of minimum standards of practice are necessary for our law to fit in today's social and legal environment.
- 6) Minimum standards of practice can not be addressed without the inclusion of the premises. It is felt a premises inspection needs to be included and a premises permit be issued. This will involve the addition of an inspection and permit fee to fund this portion of the act.
- 7) The establishment of committees outside the board help implement the law in such areas as continuing education and grievance/ethics reviews.
- 8) For those veterinarians caught in emergency situations beyond anyone's control and their medical knowledge could possibly save a human life a "Good Samaritan" clause is included.

The passage of these changes would make the operation of our board much more time effective and consumer complaints could be individualized with limitations or fines.

Everything included in these proposed changes is to promote the public health, safety and and welfare. To protect the consumer's interest with a complaint of whatever nature and in the process, enhance the image of the veterinary profession in Kansas.

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ATTACHMENT #2

HOUSE AGRICULTURE COMMITTEE

PROPOSED BILL TO ESTABLISH ADMINISTRATIVE REMEDIES
IN THE KANSAS MEAT AND POULTRY INSPECTION ACT

January 20, 1993

Mr. Chairman, members of the House Agricultural Committee: My name is Larry D. Woodson, Director of the Division of Inspections and I am here this morning to respectfully request your consideration of a bill to establish administrative remedies in the Kansas Meat and Poultry Inspection law and make other technical changes.

Our desire to amend K.S.A. 65-6a27 is based on our experiences in court in which there was a legal question regarding the difference between the term "transportation" in the unlawful acts section of the law (K.S.A. 65-6a27) and the term "distribution" in the penalty section of the law (K.S.A. 65-6a40). Similar confusion has arisen in federal courts. The amendments proposed for your consideration will address that situation.

New section 4 of this proposal provides for suspension of registration for violations of the Meat and Poultry Inspection Act.

The violations are set forth as convictions, failure to comply with regulations, interference with authorized inspections, and failure to allow ingress and egress.

Previously, the law only allowed for withdrawal of inspection rather than suspension of registration. This allowed action under egregious conditions resulting from adulteration but failed to address mislabeling and other situations involving food safety.

Mr. Chairman, either I or our Chief Counsel, Mr. Kenneth M. Wilke, will answer any questions relative to our request for this bill.

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ATTACHMENT #3

BILL TO ESTABLISH ADMINISTRATIVE REMEDIES IN THE MEAT AND
POULTRY INSPECTION ACT AND MAKE OTHER TECHNICAL CHANGES

Section 1. K.S.A. 1991 Supp. 65-6a27 is hereby amended to read as follows. 65-6a27. (a) It shall be a violation of this act for any person:

- (1) To slaughter any livestock, domestic rabbits or poultry, except in compliance with this act;
- (2) to prepare any meat, meat food product, poultry or poultry product which is capable of use as human food, at any establishment preparing such products except in compliance with the requirements of this act;
- (3) to do, with respect to any meat, meat food product, poultry or poultry product which is capable of use as human food, any act, while being distributed or transported or while being held for sale after such distribution or transportation, which has the effect of causing such products to be adulterated or misbranded; or
- (4) to engage in a business specified in subsection (a) of K.S.A. 65-6a34 and amendments thereto or engage in business or operate a packing house, sausage plant, poultry packing plant, slaughterhouse or poultry dressing plant unless such person is currently registered with the secretary in accordance with the provisions of K.S.A. 65-6a34 and amendments thereto and has paid the fees required for the current calendar year as required by

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ATTACHMENT #4

that section.

(b) It shall be a violation of this act for any person to sell, offer or expose for sale or to distribute or transport:

- (1) Any carcass or part thereof which is capable of use as human food, or any meat, meat food product, poultry or poultry product which is adulterated or misbranded; or
- (2) any carcass or part thereof which is capable of use as human food, or any meat, meat food product, poultry or poultry product, which is required to be inspected under the provisions of this act, unless such products have been so inspected and passed.

Section 2. K.S.A. 1991 Supp. 65-6a36 is hereby amended to read as follows: 65-6a36. The secretary may (for such period, or indefinitely, as ~~he~~ the secretary deems necessary to effectuate the purposes of this act) refuse to provide, or withdraw, inspection service under this act with respect to any establishment if ~~he~~ the secretary determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this act because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in any federal or state court, of (1) any felony based upon the acquiring, handling, transporting, or distributing of unwholesome, adulterated, mislabeled or deceptively packaged food or upon fraud in connection with transactions in food, or (2) more than one violation of any law, or other than a felony, based upon the acquiring, handling, transporting, or distributing of

unwholesome, adulterated, mislabeled or deceptively packaged food or upon fraud in connection with transactions in food. This section shall not affect in any way other provisions of this act for withdrawal of the inspection services from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat or meat food products, poultry or poultry products.

Section 3. K.S.A. 65-6a40 is hereby amended to read as follows: 65-6a40. Any person who shall violate any of the provisions of this act or the provisions of any rule or regulation adopted under the provisions of this act for which no other criminal penalty is provided shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by imprisonment for not more than one (1) year, or by a fine of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine. If such violation involves intent to defraud, or any transportation or distribution or attempted transportation or distribution of an article that is adulterated, such person shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than three (3) years or by a fine of not more than ten thousand dollars (\$10,000), or by both such imprisonment and fine: Provided, That no person shall be subject to penalties under this section for receiving for transportation any article or animal in violation of this act if such receipt was made in good faith.

New Section 4. The secretary may deny, suspend, revoke or modify the provisions of any registration issued under this act,

if the secretary finds, after notice and hearing, conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant or registrant has:

(a) Been convicted of or pleaded guilty to a violation of this act or any rule and regulation promulgated thereunder;

(b) failed to comply with any provision or requirement of this act or any rule and regulation adopted thereunder;

(c) interfered with or prevented the secretary or any authorized inspector or any other authorized representative of the secretary from the performance of that person's job duties regarding any inspection or the administration of the provisions of this act; or

(d) denied the secretary or any authorized representative of the secretary access to any premises required to be inspected under the provisions of this act.

New Section 5. Before any registration shall be suspended, modified, revoked or denied renewal the secretary shall inform the registrant of the date and place of hearing upon said proposed revocation, denial or suspension. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

New Section 6. The registration holder may appeal from the decision and order, in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Section 7. K.S.A. 65-6a40 and K.S.A. 1991 Supp. 65-6a27 and 65-6a36 are hereby repealed.

Section 8. This act shall take effect and be in force from

and after its publication in the statute book.