

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on February 23, 1995, 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 Scarlett, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Committee members were provided copies of a letter from Catharine Deever, Executive Director, Kansas Veterinary Medical Association, Inc., concerning regulatory fees paid by veterinarians that was raised during hearings on **HB 2508**. The letter, also, contained a rebuttal to Steve Estes' testimony on **HB 2456**. A letter from Dr. Wade Taylor, Oakley Veterinary Service, regarding livestock inspection fees at livestock markets in **HB 2456** was distributed. (Attachments 1 and 2)

Discussion and action on: HB 2508 - Registering animal groomers

Chairperson Flower called the committee's attention to **HB 2508** and asked Raney Gilliland, Legislative Research Department, to brief the committee on the bill.

Representative Bryant offered a conceptual motion that veterinarians and veterinary clinics that groom animals be exempt from the registration and fee requirements of HB 2508 as they are licensed and inspected under other state and federal laws. Representative Weiland seconded the motion. The motion carried. Representative Ballou requested that his "no" vote be recorded.

Representative McClure offered a conceptual motion on page 4, lines 3-8, of HB 2508 to expand the definition of a location operated as a business to include a building zoned or taxed as commercial property. Representative Luthi seconded the motion. Livestock Commissioner George Teagarden noted that the intent of the bill was to exempt only part-time hobby groomers. If animal grooming is done in a home and operated as a business, they would fall under the intent of this bill. Mr. Teagarden and Jill Wolters, Revisor of Statutes, agreed that if the words "and not a private home" were removed from page 4, line 5, of the bill, the Kansas Animal Health Department through rules and regulations could further define what constitutes a business. Representative McClure, with Representative Luthi's consent, withdrew her motion.

Representative McClure then moved to strike the words "and not a private home" on page 4, line 5 of HB 2508. The motion was seconded by Representative Crabb. Motion carried.

Representative Lloyd thought the fee should be lowered from an amount not to exceed \$75, to an amount not to exceed \$50. Jill Wolters stated that this fee amount is set out in Section 21 (a) (3) K.S.A. 47-1721 concerning issuance or renewal of permits, licenses, or certificates of registration. To change the amount to a maximum of \$50 for animal groomers without lowering all fees, a new Section 4, on page 4, line 10, should probably be added. For example, the fee for a certificate of registration for animal groomers shall not exceed \$50, annually. Representative Lloyd moved that the registration fee for animal groomers not exceed \$50 annually. Representative Howell seconded the motion. Motion carried.

Representative Sloan moved to pass HB 2508 out favorably as amended. Representative Feuerborn seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on February 23, 1995.

Discussion and possible action on HB 2509 - Revisions to the livestock and domestic animal statutes, chapter 47

Chairperson Flower opened discussion on **HB 2509** by asking Raney Gilliland to brief the committee on the bill. This bill prohibits the importation or possession of feral swine, permits the livestock commissioner to require destruction of feral swine, relates to brands, removes Wallace County from brand inspection list, classifies types of domestic animals that the livestock commissioner has authority over to prevent infectious diseases, lists methods of disposal of dead animals, and other technical changes.

Representative Sloan offered a balloon amendment to **HB 2509** that would amend Section 10 of K.S.A. 47-623 and add a new Section 11. The change in Section 10 would increase the penalty for knowingly bringing diseased animals into the state. New Section 11 would create a swine indemnity fund. Representative Humerickhouse seconded the motion. (Attachment 3)

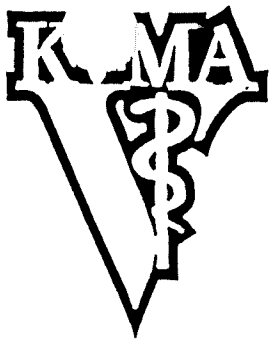
Under this amendment producers issued a qualified validated certificate or monitored certificate for swine herds for pseudorabies would pay an annual fee to be established by the livestock commissioner using the fee schedule set out in Section 11. These certificates are currently issued for no charge. This would be a voluntary, producer funded program. This amendment would provide for a swine indemnity fund to be used for the expenses incurred by the livestock commissioner to dispose of a swine herd that was found to be infested with pseudorabies, including the cost of indemnity. Subsection (e) states that no fee would be collected once the State of Kansas is certified to be free of pseudorabies by the USDA. If the problem of pseudorabies should reoccur, staff thought the livestock commissioner could re-establish the fund. This fund could only be used for expenses incurred by the livestock commissioner to dispose of a diseased swine herd, including indemnity. It would take an act of the legislature to raid the fund for another purpose.

Mike Jensen with the Kansas Pork Producers Council indicated that this concept had been discussed among their members, and that the pork producers would be in favor of such a fund. If this indemnity fund were used to rid the state of the only known diseased swine herd in Kansas at the present time, and Kansas was certified disease free by the USDA, it would be easier and less expensive to move swine across state lines. He considered this a marketing program. Based on the current number of certificates, Mr. Jensen thought this fee could amount to as much as \$15,000 to \$18,000, annually.

Some committee members thought that the fee schedule was a little high for small producers. It was stated that it didn't cost the agency much more to certify a large herd than it did a small herd. It was called to the committee's attention that the fee schedule stated "not more than..." and that it could be adjusted by the livestock commissioner.

Discussion will continue tomorrow on this amendment to **HB 2509**.

The meeting adjourned at 10:00 a.m. The next meeting is scheduled for February 24, 1995.



KANSAS VETERINARY MEDICAL ASSOCIATION, INC.

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FAX: (913) 233-2534

February 21, 1995

Representative JoAnn Flower, Chairperson and
Members of the House Committee on Agriculture
171-W, State Capitol
Topeka, Ks. 66612-1590

Chairperson Flower and
Member of the House Committee on Agriculture:

Dr. Gary L. Modrcin
President
College Blvd. Animal Hospital
11733 College Blvd.
Overland Park, Ks. 66210

Dr. Duane M. Henrikson
President-Elect
Emporia Veterinary Hospital
710 Anderson
Emporia, Ks. 66801

Dr. William D. Fortney
Vice President
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KSU College of Veterinary Med.
1735 Cedar Crest
Manhattan, Ks. 66502

Dr. Vern Otte
Trustee-at-Large
State Line Animal Hospital
2009 W. 104th
Leawood, Ks. 66206

Dr. Frank Solomon
Treasurer
Solomon Veterinary Clinic
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Catharine A. Deever
Executive Director
KVMA Office
816 SW Tyler, Suite 200
Topeka, Ks. 66612

RE: Regulatory Fees Paid By Veterinarians

In today's testimony from Debra Duncan, Kansas Department of Animal Health, she stated, "They [veterinarians] regulate themselves."

For the sake of accuracy, we believed it is necessary to point out that licensed veterinarians are regulated by:

**Kansas Board of Veterinary Examiners
Kansas Board of Pharmacy**

Veterinarians are also impacted by regulations promulgated by:

**U.S. Drug Enforcement Agency (DEA)
U.S. Environmental Protection Agency
U.S. Dept. of Labor (Occ. Safety & Hazard Admin.)
U.S. Dept. of Agriculture
Kansas Dept. of Health & Environment
Kansas Dept. of Agriculture
Kansas Dept. of Animal Health
Kansas Dept. of Human Resources**

Thus, veterinarians pay a number of license fees. They include but are not limited to:

| <u>License Category</u> | <u>Fee</u> | <u>Frequency</u> |
|--|------------|---|
| To Practice Veterinary Medicine (\$ 50.00 late fee) | \$ 75.00 | Annual |
| To Register Facility (\$ 50.00 late fee) | \$ 50.00 | \$ 15.00 yr. update |
| To Inspect Facility | \$ 100.00 | Per circumstance |
| To Hold DEA License | \$ 210.00 | Every 3 years |
| To Register X-Ray Equipment | \$ 36.00 | Annual + \$ 11.00 per additional machine |

*House Agriculture
Attachment 1
2-23-95*

Committee members asked whether veterinarians provided grooming services and if so whether they, too, should pay a license fee to offer such services. It should be pointed out that although some veterinarians may have staff provide aesthetic grooming services, it is often that "grooming" by a veterinarian is instead provided as an integral part of medical treatment for skin diseases -- not necessarily for cosmetic purposes. Such services provided in the course of practicing medicine are already addressed within the veterinarians' practice act and are already being taxed.

Our position is that we don't need to be assessed more than once for the same function.

Companion to the actual license fees veterinarians pay are those costs they bear in order to retain and maintain their licenses. It should be noted that veterinarians are required to obtain 20 hours of continuing education on an annual basis. Costs vary for courses. Include costs of travel and time away from business.

In addition to these fees specific to veterinary medicine, licensed veterinarians operating a practice must comply with regulations set forth by:

Kansas Dept. of Revenue
Consumer Credit Commissioner
Local Fire Departments

Like any business, veterinarians pay taxes which, at minimum, include:

Income Tax
Sales Tax
Secretary of State Privilege Tax
Real Estate Tax
Personal Property Tax

This list of tax and fee obligations is not inclusive as veterinarians involved in specialty practice may submit payments beyond these referenced.

Also, in yesterday's testimony regarding HB 2456 from Mr. Steve Estes, Sale Barn Operator from Atchison, the statement was made that current law provides opportunity for veterinarian and sale barn operator to "negotiate" on compensation for services performed in the course of satisfying Kansas law.

History has shown that this approach to negotiation does not work. The current law creates an adversarial relationship between sale barn operators and the veterinarian. Their roles are not always compatible, in that the sale barn operator's role is to manage a profitable business while the veterinarian's role at the sale barn is to insure food safety and protect the consumer. When the market operator and veterinarian negotiate directly on regulatory service fees without involvement of the regulatory agency, there is a tendency for parties involved to forget that the veterinarian actually reports to the State (Livestock Commissioner) and is directly responsible for and to the public.

Regarding **Mr. Estes'** testimony on facilities provided by the livestock markets, it should be noted that sale barns **are required** to provide facilities in order to perform the work mandated by statute. Veterinarians, then, may become available for other work requested by owners. These ancillary services **may be** performed by the veterinarian as time permits and only in the event these service requests do not interfere with regulatory duties.

Many sale barns (including those in Dodge City and Pratt which are the two largest operations in the state) charge a "chute fee" for blood testing and pregnancy testing done by the veterinarian in order to offset the costs of providing facilities.

It is also worth noting that sale barns may have their own employees process cattle as a service to the customers -- in which case the veterinarian is not involved.

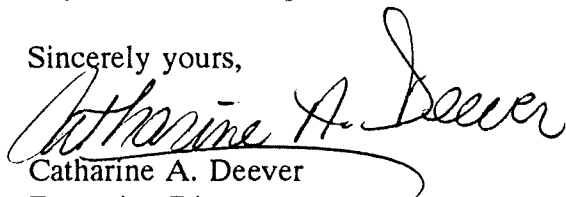
Mr. Estes cited a total of \$ 800.00 to \$ 1,500.00 per sale being paid to a veterinarian. This is misleading as he gave you no figures for the time associated nor the services, pharmaceuticals and other supplies required.

We object to calculating regulatory service fees paid to the sale barn veterinarian based upon the **possibility** that the veterinarian **might** receive ancillary service fees as a result of him or her just being on site. To expect the veterinarian to subsidize his or her compensation rightfully earned in the course of protecting public health and safety by performing ancillary work which is not a part of regulated duties creates a dangerous situation.

We do not want the impression left with the committee that a veterinarian should enhance their incomes at the expense of their public health mission. Veterinarians guilty of doing so violate their professional oath, code of ethics, and several Kansas statutes which could result in citation, fine, suspension or revocation or license not to remedy through the judicial system.

Please call **Dr. David Ripple**, 316-237-2751, or **Dr. Peter K. Sherlock**, 913-325-2391, for answers to your additional questions.

Sincerely yours,



Catharine A. Deever
Executive Director
Kansas Veterinary Medical Association

cc: KVMA Executive Board
KVMA Legislative Committee
KVMA Accountant, David C. Cavanaugh
KVMA Attorney, Greg Dennis

OAKLEY VETERINARY SERVICE, P.A.

HCR1, Box 10A
Oakley, KS 67748

(913) 672-3411

Wade Taylor, D.V.M.
Mike Dodd, D.V.M.
Layne Lunsway, D.V.M.

February 12, 1995

TO: Chairman and Members of House Committee on Agriculture

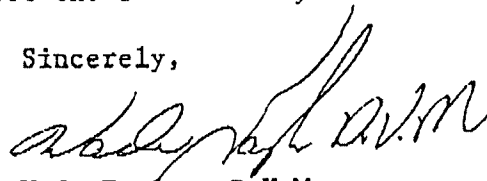
TOPIC: Livestock Market Inspection Fees

I believe that the per head level of \$0.07 which has been in place since 1981 is not now adequate for the following reasons:

- 1) Increased liability in today's society
- 2) Increased cost of doing business - inflation has influenced our business costs.

Due to these circumstances, I believe it is a reasonable request to have the livestock commissioner set the fee annually.

Sincerely,



Wade Taylor, D.V.M.

WT/slt

*House Agriculture
Attachment 2
2-23-95*

HOUSE BILL No. 2509

By Committee on Agriculture

2-14

9 AN ACT concerning animals; prohibiting the possession of feral swine;
10 relating to brands; concerning infectious disease among domestic an-
11 imals; relating to inspectors' appointments; concerning unlawful dis-
12 posal of dead animals; amending K.S.A. 47-416, 47-417, 47-423, 47-
13 429, 47-435, 47-1013 and 47-1219 and K.S.A. 1994 Supp. 47-635 and
14 repealing the existing sections; also repealing K.S.A. 47-444.

47-623,

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

17 New Section 1. (a) As used in this section, "feral swine" means any
18 untamed or undomesticated hog, boar or pig.

19 (b) Importation or possession, or both, of feral swine into the state
20 of Kansas is a violation of state law, which may incur a civil penalty in the
21 amount of not less than \$250 nor more than \$1,000 for each such viola-
22 tion. In the case of a continuing violation, every day such violation con-
23 tinues shall be deemed a separate violation.

24 (c) Any duly authorized agent of the livestock commissioner, upon a
25 finding that any person, or agent or employee thereof, has violated any
26 of the provisions stated above, may impose a civil penalty upon such
27 person as provided in this section.

28 (d) No civil penalty shall be imposed pursuant to this section except
29 upon the written order of the duly authorized agent of the livestock com-
30 missioner to the person who committed the violation. Such order shall
31 state the violation, the penalty to be imposed and the right of the person
32 to appeal to the commissioner. Any such person, within 20 days after
33 notification, may make written request to the commissioner for a hearing
34 in accordance with the provisions of the Kansas administrative procedure
35 act. The commissioner shall affirm, reverse or modify the order and shall
36 specify the reasons therefor.

37 (e) Any person aggrieved by an order of the commissioner made un-
38 der this section may appeal such order to the district court in the manner
39 provided by the act for judicial review and civil enforcement of agency
40 actions.

41 (f) Any civil penalty recovered pursuant to the provisions of this sec-
42 tion shall be remitted to the state treasurer, deposited in the state treasury
43 and credited to the state general fund.

2-23-95
Attachment 3
House Agriculture

1 ~~dollars~~ \$100.

2 (b) Any owner or owners of any dead animals, carcasses of such an-
3 imals or domestic fowl, or any part thereof, who shall knowingly permit
4 the same to remain in any well, spring, brook, branch, river, creek, pond,
5 road, street, alley, lane, lot, field, meadow or common to the injury of the
6 health or to the annoyance of or damage to the citizens of the state or
7 any of them, shall be deemed guilty of a misdemeanor, and upon convic-
8 tion thereof shall be fined in a sum not exceeding ~~one hundred dollars;~~
9 ~~and \$100.~~ Every ~~twenty-four~~ 24 hours the owners shall permit the same
10 to remain thereafter shall be deemed an additional offense. ~~The provi-~~
11 ~~sions of this section shall not be construed to prohibit the~~

12 (c) *Persons disposing of dead animals shall do so in one of the follow-*
13 *ing ways: (1) Burial; (2) incineration; or (3) delivery or unloading of the*
14 *carcasses of dead animals or packing house refuse at a disposal plant,*
15 *substation, rendering plant or place of transfer licensed by the commis-*
16 *sioner.*

17 Sec. 10. K.S.A. 47-416, 47-417, 47-423, 47-429, 47-435, 47-444, 47-
18 1013 and 47-1219 and K.S.A. 1994 Supp. 47-635 are hereby repealed.

19 Sec. 11. This act shall take effect and be in force from and after its
20 publication in the statute book.

Insert Sec. 10 and 11, see attached,
Renumber remaining sections accordingly.

47-623,

3-2

Sec. 10. K.S.A. 47-623 is hereby amended to read as follows: 47-623. ~~That~~ Any person who ~~shall~~ knowingly ~~bring~~ brings into this state any domestic animal which is affected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease shall be deemed guilty of a misdemeanor, and upon conviction ~~thereof~~ shall be fined in any sum not less than ~~one-hundred~~ \$100 nor more than ~~one thousand-dollars-~~ \$1,000 per animal. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

New Sec. 11. (a) Except as provided in subsection (b) or (e), any person who is issued a qualified validated certificate or monitored certificate for swine herds for pseudorabies shall pay the following annual fee as established by the livestock commissioner:

- (1) Not more than \$45, for less than 50 sows;
- (2) not more than \$60, for 51 to 250 sows;
- (3) not more than \$85, for 251 to 749 sows; or
- (4) not more than \$100, for more than 750 sows.

(b) Any person who is issued more than one certificate shall pay a fee for the combined total number of sows in the certified herds and shall not be required to pay a fee per certificate or per herd.

(c) The livestock commissioner shall remit all moneys received by or for the commissioner pursuant to this section at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the swine indemnity fund which is hereby created.

(d) All expenditures from the swine indemnity fund shall be used for the expenses incurred by the livestock commissioner to dispose of a swine herd which is found to be infested with pseudorabies including the cost of indemnity pursuant to K.S.A. 47-615 and 47-616, and amendments thereto. All expenditures from the swine indemnity fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person or persons designated by the commissioner.

(e) No fee shall be collected pursuant to this section, if the state of Kansas is certified to be free of pseudorabies by the United States department of agriculture.