

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 16, 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:

Renee Harris, Manager, Lawrence Humane Society  
Debra Duncan, Director, Animal Facilities Inspection Program, Kansas Animal Health Department

Others attending: See attached list

**Discussion and action on SB 260 - Repealing the statute dealing with the national checkoff for sheep and wool products**

Representative Freeborn moved to pass SB 260 out favorably. Representative Feuerborn seconded the motion. The motion carried.

**Continuation of hearing on SB 252 - Penalties for animal cruelty; disposition of animals seized; licensure and regulation of pounds and animal shelters**

Chairperson Flower reopened the hearing on **SB 252**.

Renee Harris, Manager, Lawrence Humane Society, presented an amended version of her amendment to **SB 252** regarding animals taken into custody in animal cruelty cases. If an animal is placed in the care of an animal shelter or pound, the owner or custodian of the animal must be notified within 30 days that a cash or surety bond must be filed with the county treasurer. The surety bond shall be renewable every 30 days. Upon the filing of a sworn complaint by any authorized agent, the county or district attorney shall determine the validity of the complaint and file the appropriate charges within twenty days. She felt that with these amendments, humane societies and pounds would be assured restitution in animal cruelty cases. (Attachment 1)

Debra Duncan, Director of the Animal Facilities Inspection Program, Kansas Animal Health Department, appeared in support of **SB 252**. She felt humane societies should be reimbursed for the cost of care of animals held as evidence in cruelty and dog fighting cases. The department had requested the amendment in the Senate that no-kill shelters come under the Kansas Animal Dealer Act. No-kill shelters function in much the same way as humane shelters, but are not subject to any of their rules or regulations. Included in the definition of no-kill shelter are those people who collect or maintain large numbers of animals, but do not sell or adopt them out. (Attachment 2)

Representative Sloan distributed copies of an amendment to **SB 252** that he had prepared concerning animals taken into custody in animal cruelty cases. He asked the committee to review his amendment as they considered this legislation. (Attachment 3)

This concluded the hearing on **SB 252**.

The meeting adjourned at 9:45 a.m. The next meeting is scheduled for March 17, 1995.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 16, 1995

NAME	REPRESENTING
George Teagarden	KATHD
Debra Duncan	KATHD
Renee Harris	Lawrence Humane Society
M. Jensen	Ks Park Council
Marty Vanier	Ks Ag Alliance
Mike Beam	Ks Livestock Assn.
Fr. Jerome Mongan	Chaplain
Don Ryan	Ryan Consulting
Catherine A. Deaver	Ks-Vet-Med. Assn.
Imke Fran	KUMA
Brambor Carlson	
Wendy D. Carlson	KUMA
Debra Carlson	
Blake Carlson	
Debra Carlson	

Lawrence Humane Society  
Renee Harris, Manager  
1805 E. 19th Street  
Lawrence, KS 66046  
(913) 843-6835 Telephone  
(913) 843-6369 FAX

House Committee of Agriculture  
Chairperson Representative Flowers

Ms. Chairperson and Committee Members:

Again I would like to thank you for this opportunity to speak before the committee. After several conversations with committee members and many other animal shelters across the state I would like to offer this amendment in regards to the K.S.A. 21-4311.

Amended Version:

K.S.A. 21-4311 sub-section (1):

"Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any 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 an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. // If the animal is placed in the care of an animal shelter or pound, notification must be given to the owner or custodian of the said animal(s) informing them within thirty days of notification they are required to file a cash or surety bond with the county treasurer of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for at least 30 days, however that such bond or security shall be renewable every thirty days and is done prior to the expiration of the first 30 day period and so on.. At the conclusion of the case, the surety bond shall be forfeited to the county or in the case of a cash bond a refund granted if there is a judicial determination of no guilt.

K.S.A. 21-4311 sub-section (4):

Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, the county or district attorney shall // immediately determine the validity of the complaint and within twenty days file appropriate charges for the crime if the complaint appears to be valid.

With the above amendments the humane societies and pounds will be assured restitution when the cases become completed. With the second amendment request the intent is to alleviate unwarranted bonds being posted by the accused parties and thus decrease any possibility of liabilities to any or all parties involved.

Again thank you for your time and consideration to this bill and amendment herein.

*House Agriculture  
Attachment 1  
3-16-95*

**STATE OF KANSAS**  
**KANSAS ANIMAL HEALTH DEPARTMENT**  
**George Teagarden, Livestock Commissioner**

712 South Kansas Avenue Suite 4-B Topeka Kansas 66603-3808  
Phone 913/296-2326 FAX 913/296-1765

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March 15, 1995

Madame Chair and Members of the House Committee on  
Agriculture:

My name is Debra Duncan and I am the Director of the Animal Facilities Inspection Program for the Animal Health Department. I am here this morning in support of S.B. 252. We agree with the Humane Societies' request to be reimbursed for the cost of care of animals held as evidence for cruelty and dog fighting cases. The posting of a bond for the care of the animals seems reasonable to insure that Humane Societies recover their expenses.

Section 3 of the bill was amended at our request to include no-kill shelters under the Kansas Animal Dealer Act. Most no-kill shelters function like Humane Societies but are not subject to any of our rules and regulations, including the three-day holding period or record keeping requirements. Nor are they required to follow the spaying and neutering law. This means, among other things, that if your dog gets loose and someone picks it up and takes it to a no-kill shelter rather than the local pound or shelter, the no-kill facility is not required to keep the dog for a certain number of days or to keep records as to the disposition of the dog.

The definition of no-kill shelter also includes people who collect or maintain large numbers of animals, but who do not sell them or adopt them out. We do not believe that there are large numbers of collectors in the state. However, we often receive complaints about these facilities and are unable to do anything except refer the complaining party to the sheriff. Many times the sheriff is too busy or understaffed to worry about the health and welfare of dogs.

Thank you for your attention. I am happy to respond to any questions.

*House Agriculture  
Attachment 2  
3-16-95*

SENATE BILL No. 252

By Committee on Federal and State Affairs

2-7

10 AN ACT concerning animals; relating to certain crimes and penalties  
11 therefor; providing for disposition of certain animals taken into cus-  
12 tody; relating to licensure and regulation of ~~pounds and animal no-kill~~  
13 shelters; amending K.S.A. ~~21-4311~~, 21-4316, 47-1701, 47-1704, 47-  
14 1710, ~~47-1718~~ 47-1712 and 47-1731 and K.S.A. 1994 Supp. 21-4310  
15 and repealing the existing sections.

21-4311,

16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 1994 Supp. 21-4310 is hereby amended to read as  
19 follows: 21-4310. (a) Cruelty to animals is:

20 (1) Intentionally killing, injuring, maiming, torturing or mutilating  
21 any animal;

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

24 (3) having physical custody of any animal and failing to provide such  
25 food, potable water, protection from the elements, opportunity for ex-  
26 ercise and other care as is needed for the health or well-being of such  
27 kind of animal.

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

29 (1) Normal or accepted veterinary practices;

30 (2) bona fide experiments carried on by commonly recognized re-  
31 search facilities;

32 (3) killing, attempting to kill, trapping, catching or taking of any an-  
33 imal in accordance with the provisions of chapter 32 or chapter 47 of the  
34 Kansas Statutes Annotated;

35 (4) rodeo practices accepted by the rodeo cowboys' association;

36 (5) the humane killing of an animal which is diseased or disabled  
37 beyond recovery for any useful purpose, or the humane killing of animals  
38 for population control, by the owner thereof or the agent of such owner  
39 residing outside of a city or the owner thereof within a city if no animal  
40 shelter, ~~pound~~, **pound** or licensed veterinarian is within the city, or by a  
41 licensed veterinarian at the request of the owner thereof, or by any officer  
42 or agent of an incorporated humane society, the operator of an animal  
43 shelter ~~or pound or pound~~, a local or state health officer or a licensed

*House Agriculture  
Attachment 3  
3-16-95*

- 1 veterinarian three business days following the receipt of any such animal
- 2 at such society; shelter or pound or ~~shelter~~, **shelter or pound**;
- 3 (6) with respect to farm animals, normal or accepted practices of
- 4 animal husbandry;
- 5 (7) the killing of any animal by any person at any time which may be
- 6 found outside of the owned or rented property of the owner or custodian
- 7 of such animal and which is found injuring or posing a threat to any
- 8 person, farm animal or property; or
- 9 (8) an animal control officer trained by a licensed veterinarian in the
- 10 use of a tranquilizer gun, using such gun with the appropriate dosage for
- 11 the size of the animal, when such animal is vicious or could not be cap-
- 12 tured after reasonable attempts using other methods.

13 (c) Cruelty to animals is a class B A nonperson misdemeanor.

14 ~~Sec. 2. K.S.A. 21-4311 is hereby amended to read as follows: 21-~~  
 15 ~~4311. (1) (a) Any public health officer, law enforcement officer, licensed~~  
 16 ~~veterinarian or officer or agent of any incorporated humane society, an-~~  
 17 ~~imal shelter or other appropriate facility may take into custody any animal;~~  
 18 ~~upon either private or public property, which clearly shows evidence of~~  
 19 ~~cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto.~~  
 20 ~~Such officer, agent or veterinarian may inspect, care for or treat such~~  
 21 ~~animal or place such animal in the care of a duly incorporated humane~~  
 22 ~~society or licensed veterinarian for treatment, boarding or other care or;~~  
 23 ~~if an officer of such humane society or such veterinarian determines that~~  
 24 ~~the animal appears to be diseased or disabled beyond recovery for any~~  
 25 ~~useful purpose, for humane killing. If the animal is placed in the care of~~  
 26 ~~an animal shelter, the animal shelter shall notify the owner or custodian,~~  
 27 ~~if known or reasonably ascertainable. The animal shelter may place the~~  
 28 ~~animal for adoption or euthanize the animal at any time after 10 days~~  
 29 ~~after the owner or custodian is notified or, if the owner or custodian is~~  
 30 ~~not known or reasonably ascertainable after 10 days after the animal is~~  
 31 ~~taken into custody, unless the owner or custodian of the animal files a~~  
 32 ~~cash or corporate surety bond with the county treasurer of the county~~  
 33 ~~where the animal is being held, in an amount equal to not less than the~~  
 34 ~~cost of care and treatment of the animal for 30 days.~~

35 (2) (b) The owner or custodian of an animal placed for adoption or  
 36 killed pursuant to subsection (1) (a) shall not be entitled to recover dam-  
 37 ages for the placement or killing of such animal unless the owner proves  
 38 that such placement or killing was unwarranted.

39 (3) (c) Expenses incurred for the care, treatment or boarding of any  
 40 animal, taken into custody pursuant to subsection (1) (a), pending pros-  
 41 ecution of the owner or custodian of such animal for the crime of cruelty  
 42 to animals, as defined in K.S.A. 21-4310 and amendments thereto, shall  
 43 be assessed to the owner or custodian as a cost of the case if the owner

Insert Sec. 2. K.S.A. 21-4311  
 [See attached]

Sec. 2. K.S.A. 21-4311 is hereby amended to read as follows:  
 21-4311. ~~(1)~~ (a) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any 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 an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner or custodian, if known or reasonably ascertainable. If the owner or custodian is charged with a violation of K.S.A. 21-4310, and amendments thereto, the animal shelter may petition the district court to be allowed to place the animal for adoption or euthanize the animal at any time after 10 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 10 days after the animal is taken into custody, unless the owner or custodian of the animal files a cash or corporate surety bond with the county treasurer of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the court shall determine whether the animal may be placed for adoption or euthanized.

~~(2)~~ (b) The owner or custodian of an animal placed for adoption or killed pursuant to subsection ~~(1)~~ (a) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

~~(3)~~ (c) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection ~~(1)~~ (a), 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)~~ (d) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, the county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid.

~~(5)~~ (e) 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.

And by renumbering sections accordingly;

1 or custodian is adjudicated guilty of such crime.

2 (4) (d) Upon the filing of a sworn complaint by any public health  
 3 officer, law enforcement officer, licensed veterinarian or officer or agent  
 4 of any incorporated humane society, animal shelter or other appropriate  
 5 facility alleging the commission of cruelty to animals, as defined in K.S.A.  
 6 21-4310 and amendments thereto, the county or district attorney shall  
 7 determine the validity of the complaint and shall forthwith file charges  
 8 for the crime if the complaint appears to be valid.

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

16 Sec. 3 2. K.S.A. 21-4316 is hereby amended to read as follows: 21-  
 17 4316. (a) When a person is arrested under K.S.A. 1983 Supp. 21-4315  
 18 and amendments thereto, a law enforcement agency may take into cus-  
 19 tody any dog on the premises where the dog fight is alleged to have  
 20 occurred and any dog owned or kept on the premises of any person ar-  
 21 rested under subsection (a) or (e) of K.S.A. 1983 Supp. for unlawful con-  
 22 duct of dog fighting or for attending the unlawful conduct of dog fighting,  
 23 under K.S.A. 21-4315 and amendments thereto.

24 (b) When a law enforcement agency takes custody of a dog under  
 25 this section, such agency may place the dog in the care of a duly incor-  
 26 porated humane society or licensed veterinarian for boarding, treatment  
 27 or other care. If it appears to a licensed veterinarian that the dog is dis-  
 28 eased or disabled beyond recovery for any useful purpose, such dog may  
 29 be humanely killed. **The dog may be sedated, isolated or restrained**  
 30 **if such officer, agent or veterinarian determines it to be in the best**  
 31 **interest of the dog, other animals at the animal shelter or personnel**  
 32 **of the animal shelter. If the dog is placed in the care of an animal shelter,**  
 33 **the animal shelter may place the dog for adoption or euthanize the dog**  
 34 **at any time after 10 days after the dog is taken into custody unless the**  
 35 **owner or custodian of the dog files a cash or corporate surety bond with**  
 36 **the county treasurer of the county where the dog is being held, in an**  
 37 **amount equal to not less than the cost of care and treatment of the dog**  
 38 **for 30 days. ~~Except as provided in subsection (c), if it appears to the~~**  
 39 **licensed veterinarian by physical examination that the dog has not been**  
 40 **trained for aggressive conduct or is a type of dog that is not commonly**  
 41 **bred or trained for aggressive conduct, the district or county attorney**  
 42 **shall order that the dog be returned to its owner when the dog is not**  
 43 **needed as evidence in a case filed under K.S.A. 21-4315 or 21-4310, and**

If the dog is placed in the care of an animal shelter, the animal shelter may petition the district court to be allowed to place the dog for adoption or euthanize the dog at any time after 10 days after the dog is taken into custody, unless the owner or custodian of the dog files a cash or corporate surety bond with the county treasurer of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Upon receiving such petition, the court shall determine whether the dog may be placed for adoption or euthanized.



1 *sale or disposition shall be paid directly to the treasurer of the no-*  
 2 *kill shelter and no part of such proceeds shall accrue to any indi-*  
 3 *vidual.*

4 (d) An animal shall not be disposed of by an animal dealer, operator  
 5 of a pound or operator of an animal shelter as a pound operator of a  
 6 pound, operator of a no-kill shelter as a pound or operator of an  
 7 animal shelter as a pound until after expiration of a minimum of three  
 8 (3) days of custody during which the public has clear access to inspect or  
 9 recover the animal through time periods ordinarily accepted as usual busi-  
 10 ness hours. Such an animal may at any time be released to the legal owner,  
 11 moved to a veterinary hospital for treatment or observation, released in  
 12 any manner, if such animal was a gift animal to an animal shelter, or  
 13 euthanized by a duly incorporated humane society or by a licensed vet-  
 14 erinarian if it appears to an officer of such humane society or to such  
 15 veterinarian that the animal is diseased or disabled beyond recovery for  
 16 any useful purpose.

17 See. 7. K.S.A. 47-1718 is hereby amended to read as follows: 47-  
 18 1718. (a) No animal shall be euthanized by any dog warden, or officer of  
 19 an animal shelter or officer of a pound by any means, method, agent or  
 20 device, or in any way, except as follows:

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

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

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

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

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

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

34 (2) By the use of carbon monoxide gas administered in a tightly en-  
 35 closed chamber equipped with:

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

38 (B) a gas generation process adequate to achieve a carbon monoxide  
 39 gas concentration throughout the chamber of at least five percent (5%)  
 40 5% within five (5) minutes after any animal is placed in the chamber;

41 (C) a suitable gauge or gas concentration indicator or recording de-  
 42 vice making possible easy and instantaneous visual determination of the  
 43 carbon monoxide concentration in the chamber;

3-5

During such time of custody, any owner or operator of such facility shall attempt to notify the owner or custodian of any animal maintained or impounded by such facility if such owner or custodian is known or reasonably ascertainable.

3-6

1 *the provisions of the United States public law 91-579 (7 U.S.C. §*  
2 *2131 et seq.), commonly known as the animal welfare act and a*  
3 *requirement that each animal dealer file with the commissioner ev-*  
4 *idence that animals entering or leaving the state are free from any*  
5 *visible symptoms of communicable disease.*

6 Sec. 8 7. K.S.A. 47-1731 is hereby amended to read as follows: 47-  
7 1731. (a) No dog or cat may be released for adoption from any ~~pound or~~  
8 ~~pound, no-kill shelter or~~ animal shelter, as defined by K.S.A. 47-1701  
9 and amendments thereto, or from any duly incorporated humane society,  
10 unless:

- 11 (1) Such dog or cat has been first surgically spayed or neutered; or
- 12 (2) the adopting party signs an agreement to have the dog or cat
- 13 spayed or neutered and deposits with the ~~pound or~~ ~~pound, no-kill shel-~~
- 14 ~~ter or~~ animal shelter funds sufficient to ensure that the dog or cat will
- 15 be sterilized. Any funds deposited pursuant to such an agreement shall
- 16 be refunded to the adopting party upon presentation of a written state-
- 17 ment signed by a licensed veterinarian that the adopted dog or cat has
- 18 been spayed or neutered.

19 (b) No person shall spay or neuter any dog or cat for or on behalf of  
20 ~~a pound, an a~~ ~~pound, no-kill shelter,~~ animal shelter or humane society  
21 unless such person is a licensed veterinarian or a student currently en-  
22 rolled in the college of veterinary medicine, Kansas state university, who  
23 has completed at least two years of study in the veterinary medical cur-  
24 riculum and is participating in a spay or neuter program as part of the  
25 curriculum under the direct supervision of a licensed veterinarian who is  
26 a faculty member at the Kansas state university veterinary medical center.  
27 The spay or neuter program shall only be conducted at the surgery clinic  
28 at the Kansas state university medical center in Manhattan, Kansas. No  
29 ~~pound, pound, no-kill shelter,~~ animal shelter or humane society shall  
30 designate the veterinarian which a person must use, or a list from which  
31 a person must select a veterinarian, to spay or neuter a dog or cat adopted  
32 by such person from such ~~pound, pound, no-kill shelter, animal~~ shelter  
33 or society, nor shall such ~~pound, pound, no-kill shelter, animal~~ shelter  
34 or society in any way penalize a person for such person's selection of a  
35 veterinarian to spay or neuter a dog or cat adopted from such ~~pound,~~  
36 ~~pound, no-kill shelter, animal~~ shelter or society.

37 (c) Nothing in this section shall be construed to require sterilization  
38 of a dog or cat which is being held by a ~~pound or~~ ~~pound, no-kill shelter~~  
39 ~~or~~ animal shelter and which may be claimed by its rightful owner.

40 Sec. 9 8. K.S.A. ~~21-4311, 21-4316, 47-1701, 47-1704, 47-1710, 47-~~  
41 ~~1718 47-1712 and 47-1731 and~~ K.S.A. 1994 Supp. 21-4310 are hereby  
42 repealed.

43

21-4311,