

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 5, 1996, in Room 423-S of the Capitol.

All members were present except: Representative Crabb - Excused
Representative Hutchins - Excused

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

Conferees appearing before the committee:
Debra Duncan, Kansas Animal Health Department
Jennifer Calder, Department of Health and Environment

Others attending: See attached list

Minutes of the February 22 (revised) and 23 meetings were distributed. Members were asked to notify the secretary of any corrections or additions before 5:00 p.m. today or they will be considered approved as presented.

Hearing on SB 540 - Repealing the rabies enforcement power of the livestock commissioner and placing the power with the secretary of health and environment.

Raney Gilliland, Legislative Research Department, briefed the committee on **SB 540**. He stated that the bill contained minor policy changes, but was mainly clarifying in nature. The bill defines the term "exposed to rabies." The bill allows any law enforcement officer or local health officer to take up any mammal that has exposed a person or other mammal to rabies. In addition, **SB 540** clarifies that the Department of Health and Environment has authority for the management or quarantine of mammals suspected or known to have rabies. The Livestock Commissioner would retain the ability to regulate rabies as an infectious and contagious disease.

Debra Duncan, Director of the Animal Facilities Inspection Program, Kansas Animal Health Department, spoke in support of **SB 540**. She explained that current statutes place the authority for the management or quarantine of mammals suspected or known to have rabies with the Livestock Commissioner. In practice, this issue has always been handled by the Department of Health and Environment since it is the responsibility of local law enforcement or health officials to impound an animal suspected of rabies. This bill officially transfers this responsibility to the Department of Health and Environment. She stated that this change does not affect the Livestock Commissioner's ability to regulate rabies as an infectious and contagious disease. (Attachment 1)

Jennifer Calder, Assistant State Epidemiologist and State Public Health Veterinarian with the Department of Health and Environment, submitted written testimony in support of **SB 540**. KDHE supports this bill for three reasons: 1) defines what "exposed to rabies" means and is consistent with the current national definition; 2) gives a law enforcement officer or local health officer the right to impound a known or suspected rabid mammal; and 3) eliminates rabies control recommendations that conflict with current state regulations and are inconsistent with current national recommendations. (Attachment 2)

This concluded the hearing on **SB 540**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 5, 1996.

Hearing on SB 659 - Public livestock markets; occasional sales.

Raney Gilliland, Legislative Research Department, explained **SB 659** for the committee. This bill would allow the Livestock Commissioner through rules and regulations to exempt occasional livestock sales or to issue a license for occasional livestock sales at a fee of not more than \$100 without a hearing. An occasional livestock sale is defined in the bill to mean livestock auctions or sales that are held 12 or less times per year. The bill also strikes the language which deals with federally licensed terminal markets. There currently are no federally licensed markets in the state.

George Teagarden, Livestock Commission, testified in support of **SB 659**. He stated that the Kansas Animal Health Department and the Livestock Commissioner have the authority to enforce laws and rules and regulations governing livestock markets in Kansas. He explained that there are many types of livestock auctions being held in the state ranging from pure livestock auctions to "exotic" auctions. He stated that the Department was concerned as to the licensure requirements of these various auctions. To clarify the issue, the Department asked for an opinion from the Attorney General. In general, the opinion said that anyone who sells livestock at auction for a commission or fee is required to be licensed as a livestock market. He stated that **SB 659** is in response to the Attorney General opinion. (Attachment3)

Mr. Teagarden indicated that the license fee for occasional sales would be higher than for regular livestock market licenses, but there would be no inspection fee per head and a hearing would not be necessary. Proper health requirements would be required prior to the actual sale, to be verified by an accredited veterinarian. He stated that 4-H auctions and states shows would be possible exemptions from licensure. The Commissioner explained that current language pertaining to federally licensed terminal markets is repealed in **SB 659**. There currently are no such markets in the state, and he did not anticipate any in the future. (Attachment4)

In response to committee questions, Mr. Teagarden stated that it was the Department's intent to require a \$20,000 bond for occasional sales, the same as for regular livestock markets, but they would not collect a regulatory inspection fee. There was committee concern as to whether the Livestock Commissioner had the authority to require a bond. Jill Wolters, Revisor of Statutes, thought clarifying language could be added to **SB 659** to require a bond for occasional sales.

Chairperson Flower closed the hearing on **SB 659**.

The meeting adjourned at 9:45 a.m. The next meeting is scheduled for March 6, 1996.

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

March 5, 1996

Madame Chair and Members of the House Committee on Agriculture, I am Debra Duncan, Director of the Animal Facilities Inspection program for the State of Kansas. I am here today to ask for your support for S.B. 540.

S.B. 540 concerns the management or quarantine of mammals suspected or known to have rabies. Current law places the management of this issue under the authority of the Livestock Commissioner. Realistically this issue has always been handled by the Department of Health and Environment since it is the responsibility of local law enforcement or the local health officer to impound an animal suspected of rabies. S.B. 540 officially transfers this responsibility to the Department of Health and Environment. This change does not affect the Livestock Commissioner's ability to regulate rabies as an infectious and contagious disease.

Thank you for your consideration. I will be happy to answer any questions you may have.

*House Agriculture
Attachment 1
3.5-96*

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James O'Connell, Secretary

Written testimony presented to

House Agriculture Committee

by

The Kansas Department of Health and Environment

Senate Bill 540

The Department of Health and Environment appreciates the opportunity to present testimony related to S.B. 540.

The bill proposes to repeal K.S.A. 47-125 and replace it with a new statute that defines "exposed to rabies". The bill also contains provision for the impounding of mammals having exposed to rabies a person or other mammal and reserves the management of the animal to the rules and regulations adopted by the Secretary of Health and Environment.

The Department of Health and Environment supports this bill for several reasons. First, it defines what "exposed to rabies" means. K.S.A. 47-125 referred only to bite exposures. Rabies can be transmitted through bite and non-bite exposures. This definition follows the current national definition for exposure to rabies and is consistent with national recommendations. Second, the bill gives a law enforcement officer or local health officer the right to impound a known or suspected rabid mammal having exposed a person or other mammal to rabies. Third, the bill eliminates rabies control recommendations that conflict with current state regulations and are inconsistent with current national recommendations.

Thank you for this opportunity to provide testimony.

Testimony presented by: Jennifer Calder, D.V.M., M.P.H., Ph.D.
Assistant State Epidemiologist and
State Public Health Veterinarian
March 5, 1996

*House Agriculture
Attachment 2
3-5-96*



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

July 24, 1995

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

Mr. George Teagarden
Livestock Commissioner
Kansas Animal Health Department
712 S. Kansas Ave., Suite 4-B
Topeka, Kansas 66603-3808

Dear Mr. Teagarden:

Being mindful of the problematic situation created by our conclusions in Attorney General Opinion No. 95-76, in relation to exotic animal markets and dog, cat or bird shows, we offer the following remedial suggestion: under authority of K.S.A. 47-1712, as amended by 1995 SB 260, § 8 and K.S.A. 47-1832, the livestock commissioner has authority to establish regulations in relation to pet shops and exotic animals. As commissioner you may wish to consider establishing two categories of pet shops: (1) a fixed place of business wherein animals are sold on a continual basis and (2) a temporary premises wherein animals are sold on an occasional basis. The latter would then cover animal shows and consignment auction sales of exotic animals. While the operator of the pet shop would be required to be licensed to operate either kind of pet shop, regulations could address differing requirements for each type of premises.

Another way to remedy the situation would be by a statutory exception in the definition of pet shop for exotic animal consignment auctions and animal shows.

Very truly yours,

Handwritten signature of Carla J. Stovall in cursive.

CARLA J. STOVALL
ATTORNEY GENERAL OF KANSAS

CJS:CN:bas

House Agriculture
Attachment 3
3-5-96



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

July 24, 1995

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

ATTORNEY GENERAL OPINION NO. 95- 76

Mr. George Teagarden
Livestock Commissioner
Kansas Animal Health Department
712 S. Kansas Avenue, Suite 4-B
Topeka, Kansas 66603-3808

Re: Livestock and Domestic Animals--Public Livestock
Markets--Definitions; Public Livestock Market;
Ratites and Domesticated Deer; License Requirements

Livestock and Domestic Animals--Animal Dealers--
Definitions; Pet Shop; Exotic Animals; License
Requirements

Synopsis: Ratites and domesticated deer, which are
statutorily defined as livestock, are implicitly
excluded from the class of animals subject to pet
shop operator regulations and consequently are
placed within laws regulating livestock. Thus a
pet shop operator's license is not required to
operate premises where only ratites or domesticated
deer are sold at retail. In addition, if these
animals are sold for resale to another, i.e.
wholesale, the operator is not required to be
licensed as a pet shop operator.

If livestock, including ratites or domesticated
deer, are sold on behalf of a producer or consigner
at premises which fall within the definition of
public livestock market, the operator of that
market is required to be licensed as a public
livestock market operator. If ratites or
domesticated deer are sold at premises not falling
within the statutory definition of a public
livestock market, the person engaging in the

business of selling is required to be registered as a livestock dealer.

Any person who operates premises where there are sold, or offered or maintained for sale, at retail and not for resale to another, any vertebrate animal, exotic or otherwise which is not exempted, is required to be licensed as a pet shop operator. Thus operators of exotic animal consignment auctions are necessarily included within the pet shop operator licensing requirement, as are operators of dog, cat and bird shows at which retail sales of animals occur.

The mere fact that a public livestock market operator is a not-for-profit organization does not create an exemption from the public livestock market operator licensing requirement, livestock dealer registration requirement or pet shop operator license requirement. Cited herein: K.S.A. 1994 Supp. 47-1001; K.S.A. 47-1001a; 47-1701, as amended by 1995 SB 260, § 5; 47-1703; 47-1712, as amended by 1995 SB 260, § 8; 47-1713; K.S.A. 1994 Supp. 47-1804; K.S.A. 47-1832; K.S.A. 1994 Supp. 47-2201; K.A.R. 9-20-1; 9-20-2; 9-20-3; 115-20-3; 9 C.F.R. §1.1.

* * *

Dear Mr. Teagarden:

As Kansas livestock commissioner you pose a number of questions relating to the Kansas animal health department's regulation of various methods of selling exotic and domesticated animals. The regulatory framework concerning the sale of animals is complex with the type of license or registration required, if any, dependent on a number of factors including the legal definition and classification(s) of the animal, whether the sale is wholesale or retail, and the setting of the sale.

You inform us that an "exotic animal market" refers to a consignment auction which an individual or organization has arranged for the sale of exotic animals. This type of market typically occurs at a temporary site such as a rented building (e.g. a fairgrounds building) or outdoors under a large tent. Generally a sale of this type is held by the organizer once or twice a year, and lasts one to three days. Purchasers of the exotic animals are usually animal breeders or other private individuals. You appear to use the term "exotic animals" to refer to a wide variety of unusual animals not

indigenous to this geographic area or not usually possessed as pets.

The term "exotic animal" is statutorily defined for several purposes. For instance, the livestock commissioner is authorized to establish rules and regulations on disease control programs for farm animals and exotic animals, including their sale and importation into the state. K.S.A. 47-1832. For purposes of this statute "exotic animal" means "any animal . . . that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad." K.S.A. 47-1832; See 9 C.F.R. § 1.1. To date, rules and regulations have not been adopted under this grant of authority.

In another context, the Kansas department of wildlife and parks requires a game breeder's permit in order to raise and sell "exotic wildlife." In this context "exotic wildlife" means:

"non-migratory wildlife, not native or indigenous to Kansas, or not presently existing in Kansas as an established wild population." K.A.R. 115-20-3.

A third statute, without defining exotic animals, authorizes the livestock commissioner to prohibit the sale or gift of exotic animals that constitute a hazard to human health or safety or to animal health or safety. K.S.A. 47-1713. To date the commissioner has not prohibited the sale or gift of any animal considered exotic.

The first question you pose in effect asks what, if any, licensing requirements are applicable to "exotic animal markets." You pose questions concerning ratites (large flightless birds such as ostrich, rhea and emu), domesticated deer and other unspecified exotic animals. The above-referenced statutes unfortunately do not provide any guidance in reaching an answer. Consequently, for reasons discussed herein, the response to this question is necessarily divided into two sections: (1) ratites and domesticated deer, and (2) other exotic animals.

Ratites and Domesticated Deer

Under the Kansas animal dealer act (with some exceptions not applicable to this discussion) a pet shop is defined as:

"any premises where there are sold, or offered or maintained for sale, at retail and not for resale to another: (A) Any

dogs or cats, or both; or (B) any other animals. . . ." K.S.A. 47-1701(t).

Within this act the term "animals" is broadly defined:

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

"(2) Animal does not include horses, cattle, sheep, goats, swine or domestic fowl." K.S.A. 47-1701, as amended by 1995 SB 260, § 5.

While this definition does not distinguish between exotic and non-exotic animals, it does differentiate between animals commonly considered as livestock and all other vertebrate animals (excluding humans).

Under the act, any premises (other than those excluded) upon which the retail sale of animals, exotic or otherwise, occurs must be operated by a licensed pet shop operator in a facility which complies with department rules and regulations. K.S.A. 47-1703; K.S.A. 47-1712, as amended by 1995 SB 260, § 8. In addition, any animal, exotic or otherwise, sold by a licensed pet shop operator must be accompanied by a health certificate verifying that such animal is in sound health. K.S.A. 47-1713.

Pursuant to the animal dealers act, ratites and domesticated deer appear to be animals whose retail sale is required to occur on premises operated by a licensed pet shop operator. However, by virtue of K.S.A. 1994 Supp. 47-2201, ratites are made subject to appropriate regulations relating to livestock. In addition ratites and domesticated deer are specifically included within the definition of livestock in the public livestock market laws (along with cattle, swine, sheep, goats, horses and mules), K.S.A. 1994 Supp. 47-1001(b), and in the definition of livestock in the livestock dealer laws (along with cattle, swine, horses, sheep, goats, and poultry), K.S.A. 1994 Supp. 47-1804(b). Therefore, at least some of the animals typically sold in exotic animal markets (ratites, domesticated deer and pot-bellied pigs) are within the legal definitions of "livestock."

Construing the above provisions found within the livestock and domestic animals chapter of the Kansas statutes in pari materia, *In re: Adoption of Baby Girl H*, 12 Kan.App.2d 223 (1987), in our opinion ratites and domesticated deer,

which are statutorily defined as livestock, are implicitly excluded from the class of animals subject to pet shop operator regulation. Rather, they are placed within laws regulating livestock. Consequently in our opinion a pet shop operator's license is not required to operate premises where only ratites or domesticated deer are sold at retail. If these animals are sold for resale to another, i.e. wholesale, the operator is not required to be licensed as a pet shop operator by virtue of K.S.A. 47-1701(t), the definition of "pet shop." Thus for purposes of discussing your questions, we consider ratites and domesticated deer as livestock.

Regarding the sale of livestock, regulation occurs within two statutory schemes, public livestock market operators and livestock dealers. The former has to do with livestock sold at particular premises:

"'Public livestock market' means any place, establishment or facility . . . which includes any business conducted or operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment except that this term shall not apply to any livestock market where federal veterinary inspection is regularly maintained." K.S.A. 1994 Supp. 47-1001(f). (Emphasis added.);

and

"Public livestock market operator" means any person who, in this state, receives on consignment, or solicits from the producer or consignor thereof, or holds in trust or custody for another, any livestock for sale or exchange, on behalf of such producer or consignor at a public livestock market, or sells, or offers for sale, at a public livestock market, for the account of the producer or consignor thereof, any livestock or directly or indirectly owns, conducts or operates a public livestock market. . . ." K.S.A. 1994 Supp. 47-1001(g). (Emphasis added.)

Thus if livestock, including ratites or domesticated deer, are sold on behalf of a producer or consigner at a premises which falls within the definition of public livestock market, the operator of that market is required to be licensed as a public livestock market operator. K.S.A. 47-1001a. Assuming the premises at issue consist of "pens; or other enclosures" in which ratites or domesticated deer are maintained for sale, the sales operator is required to be licensed as a public livestock market operator.

A livestock dealer, on the other hand, is defined as:

"any person engaged in the *business of buying or selling livestock in commerce*, either on that person's own account or as the employee or agent of the seller or purchaser, or any person engaged in the business of buying or selling livestock in commerce on a commission basis and shall include any person who buys or sells livestock with the use of a video. 'Livestock dealer' does not include any person who buys or sells livestock as part of that person's own breeding, feeding or dairy operation, nor any person who receives livestock exclusively for immediate slaughter." K.S.A. 1994 Supp. 47-1804(c).

Thus if ratites or domesticated deer are sold at premises not falling within the statutory definition of a public livestock market, the person engaging in the business of selling is required to be registered as a livestock dealer.

The statutory definitions of "public livestock market" and "livestock dealer" indicate that the determinative factor is not whether livestock are sold by consignment auction or by a set price, but rather whether the sale occurs at a business premises which is a "public livestock market" operated by a person who sells livestock on behalf of a producer or consigner. If such is the setting in which a ratite or domesticated deer auction is held, the operator is required to be licensed as a "public livestock market operator." Conversely, if the sales transaction does not take place in that setting, the person who is engaged in the business of selling the ratites or domesticated deer should be registered as a "livestock dealer."

Other "Exotic" Animals

The above discussion relates only to exotic animals which also fall within the category of livestock under Kansas law. We now turn to non-livestock exotic animals, such as tigers, hedgehogs or bears. (For the sake of simplicity, in the balance of this opinion non-livestock exotic animals will be referred to as exotic animals.) You ask whether the operator of an exotic animal market who sells these kinds of exotic animals at a consignment auction as described above is required to be licensed as a pet shop operator in order to lawfully sell the animals.

As noted above, the animal dealer act presents a very broad definition of pet shop as "any premises where there are sold, or offered or maintained for sale" dogs, cats, or any other animals. K.S.A. 47-1701(t), as amended by 1995 SB 260, § 5. The operator of a pet shop must be licensed, and to become licensed the shop must be in compliance with department regulations, specifically K.A.R. 9-20-1 (facilities), K.A.R. 9-20-2 (animal health and husbandry standards) and K.A.R. 9-20-3 (records). While not stated explicitly, these regulations appear based on an understanding of a pet shop as a fixed premises in which the regular and continual business of selling animals takes place. Consequently application of these regulations to the described exotic animal markets may preclude the operator of the market from becoming licensed as a pet shop operator. Nevertheless, pursuant to the current statutory definition of "pet shop," we are constrained to find that any person who operates a premises where there are sold, or offered or maintained for sale, at retail and not for resale to another, any vertebrate animal, exotic or otherwise, which is not exempted, is required to be licensed as a pet shop operator. Thus operators of exotic animal consignment auctions are necessarily included within the pet shop operator licensing requirement.

Bird, Dog and Cat Shows

You also inform us that birds, dogs and cats are frequently sold or exchanged at bird shows, dog shows and cat shows. We understand these shows to be exhibitions by owners of birds, dogs and cats at which prizes are awarded in various categories such as best of breed. You ask whether the operator of such a show is required to be licensed as a pet shop operator with the consequent obligation that the premise comply with applicable pet shop regulations. As with the preceding discussion of exotic animal markets, based on the broad definition of pet shop we find no statutory provision

which would exclude the sale of dogs, cats or birds at shows from the pet shop operator license requirement.

Non-profit Organization as Sponsor of Exotic Animal Auction

One of the organizations which sponsors an exotic animal market by holding a consignment auction is the game breeders association, a not-for-profit organization. You ask whether the operator of this auction is required to be licensed as a public livestock market operator. If so, you also ask whether a not-for-profit organization is exempt from the licensing requirement.

Under the public livestock markets act, "person" means an individual as well as a partnership, corporation or association. K.S.A. 47-1001(c). Thus a not-for-profit organization, such as the game breeders association, is considered a "person" for purposes of operating a public livestock market. One of the defining criteria of a public livestock market is ". . . any business conducted or operated for compensation or profit. . . ." We presume that the game breeders association holds its annual auction in order to raise funds to support its corporate purposes and therefore in relation to its exotic animal auction is conducting business for compensation. Consequently, the mere fact that a public livestock market operator is a not-for-profit organization does not create an exemption from the public livestock market operator licensing requirement. By the same reasoning the not-for-profit status of any organization does not create an exemption from otherwise applicable pet shop operator license requirements or livestock dealer registration requirements.

You did not inform us of the types of animals which are sold at the game breeders' annual auction. As discussed, the applicable state regulatory framework in part depends on the kinds of animals sold. If the animals are livestock, depending on the sale setting, a public livestock market operator license or livestock dealer registration is required; if non-livestock, a pet shop operator license is required for any retail sales, but not those for re-sale to another, i.e. wholesale transactions.

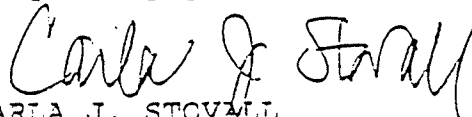
In conclusion, ratites and domesticated deer, which are statutorily defined as livestock, are implicitly excluded from the class of animals subject to pet shop operator regulations and consequently are placed within laws regulating livestock. Thus a pet shop operator's license is not required to operate premises where only ratites or domesticated deer are sold at retail. In addition, if these animals are sold for resale to another, i.e. wholesale, the operator is not required to be licensed as a pet shop operator.

If livestock, including ratites or domesticated deer, are sold on behalf of a producer or consigner at premises which fall within the definition of public livestock market, the operator of that market is required to be licensed as a public livestock market operator. If ratites or domesticated deer are sold at premises not falling within the statutory definition of a public livestock market, the person engaging in the business of selling is required to be registered as a livestock dealer.

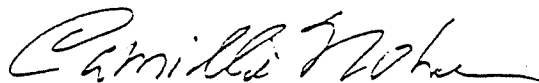
Any person who operates premises where there are sold, or offered or maintained for sale, at retail and not for resale to another, any vertebrate animal, exotic or otherwise which is not exempted, is required to be licensed as a pet shop operator. Thus operators of exotic animal consignment auctions are necessarily included within the pet shop operator licensing requirement, as are operators of dog, cat and bird shows at which retail sales of animals occur.

The mere fact that a public livestock market operator is a not-for-profit organization does not create an exemption from the public livestock market operator licensing requirement, livestock dealer registration requirement or pet shop operator license requirement.

Very truly yours,



CARLA J. STOVALL
ATTORNEY GENERAL OF KANSAS



Camille Nohe
Assistant Attorney General

CJS:JLM:CN:bas

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

March 6, 1996

S.B. 659 Occasional Sales

Madame Chair and members of the House Agriculture Committee, I am George Teagarden, Livestock Commissioner for the State of Kansas. I appear before you today as a proponent of S.B. 659.

As you know KSA 47-1001, et al, gives the Kansas Animal Health Department and the Livestock Commissioner authority to enforce laws and rules and regulations governing livestock markets in the state. Today, there are many types of livestock markets (auctions) being held in the state, ranging from pure livestock auctions to "exotic" auctions to bird auctions. Our department was concerned about what we were to do in many instances. Many of the organizers of the various auctions ask us whether they needed a state license or not and what specific license would be required, if any; some auctions were held without any communication with our department.

In light of our confusion about this issue, we asked the Kansas Attorney General for an opinion as to what type of sales (auctions) are required by law to have market licenses, pet shop licenses or livestock dealers licenses. You have a copy of the AG's opinion in front of you. In general, the opinion said, anyone who sells livestock at auction for a commission or fee is required to be licensed as a livestock market, those who sell pet animals should be licensed as a pet shop and those who sell "exotic" animals should be licensed as animal dealers.

After discussions at board meetings, the Kansas Animal Health Board suggested that I request this change of statute to accommodate for the variety of auctions that are occurring.

In section 1, page 2, lines 24 and 25, of the bill, KSA 47-1001 is amended to define occasional sales (means livestock auctions of sales, that are held 12 or less times per year). In section 2, page 2, beginning on line 26, KSA 47-1001d is amended to strike language pertaining to federally licensed (terminal) markets. We currently have none in the state and do not anticipate any in the future. New language is inserted beginning on line 40 of page 2 to allow the livestock commissioner, through rules and

*House Agriculture
Attachment 4
3-5-96*

regulations, to exempt occasional livestock sales or issue a license for such occasional livestock sales at a fee of not more than \$100 without a hearing.

Under this proposed law, we would exempt certain sales upon application and set a sliding scale for those not exempt depending on the number of sales held. The license fee would be higher than an regular livestock market license, but we would drop the inspection fee and the hearings would not be necessary (\$325). Proper health requirements would be required; completed prior to the actual sale and verified by a accredited veterinarian. Possible exemptions would include 4-H sales at the county and state shows.

Thank you for your attention. I will stand for questions.

SB659