

SENATE BILL No. 414

By Committee on Agriculture

Proposed amendments to SB 414 by Kansas Dept. of

Agriculture

Committee on Agriculture

3/7/12

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Office of Revisor of Statutes

1 AN ACT concerning agriculture; relating to animal health; amending
 2 K.S.A. 47-120, 47-121, 47-122, 47-237, 47-238, 47-419, 47-422, 47-
 3 424, 47-656, 47-1001, 47-1002, 47-1005, 47-1010, 47-1102, 47-1213,
 4 47-1217, 47-1219, 47-1301, 47-1305, 47-1306, 47-1509, 47-1701, 47-
 5 1710, 47-1711, 47-1712, 47-1723, 47-1725, 47-1727, 47-1801, 47-
 6 1804, 47-1807 and 47-2306 and K.S.A. 2011 Supp. 47-1008, 47-1302,
 7 47-1706, 47-1707, 47-1708, 47-1709, 47-1809 and 47-1826 and
 8 repealing the existing sections; also repealing K.S.A. 47-619, 47-621,
 9 47-636, 47-637, 47-638, 47-639, 47-641, 47-642, 47-643, 47-644, 47-
 10 647, 47-648, 47-649, 47-650, 47-651, 47-652, 47-653, 47-653d, 47-
 11 653e, 47-653f, 47-653g, 47-653h, 47-666, 47-667, 47-668, 47-669, 47-
 12 670, 47-671, 47-921, 47-922, 47-923 and 47-1005b and K.S.A. 2011
 13 Supp. 47-672 and 47-1307.
 14

47-654, 47-655, 47-656,

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

15 New Section 1. In addition to the remedies provided under K.S.A. 47-
 16 1001 *et seq.*, and amendments thereto, the commissioner is hereby
 17 authorized to apply to the district court for an injunction restraining any
 18 person from violating any provision of K.S.A. 47-1001 *et seq.*, and
 19 amendments thereto. Such court, upon a showing of cause therefore, shall
 20 have jurisdiction to grant such injunction irrespective of whether or not
 21 there exists an adequate remedy at law.

22 New Sec. 2. For purposes of administrative proceedings of the
 23 division of animal health of the Kansas department of agriculture, "agency
 24 head" means the Kansas secretary of agriculture or the animal health
 25 commissioner of the Kansas department of agriculture, when acting on
 26 behalf of the secretary.

Sec. 3. K.S.A. 47-120 is hereby amended to read as follows: 47-120.

27
 28
 29 (a) Nothing herein contained shall be so construed as to prevent drovers or
 30 other persons from driving swine livestock from one place to another along
 31 any public highway, the owner or owners being responsible for all
 32 damages that any person or persons may sustain in consequence of the
 33 driving of such swine livestock.

34 (b) For the purposes of K.S.A. 47-120 through 47-122, and
 35 amendments thereto, "livestock" shall mean any cattle, bison, swine,
 36 sheep, goats, horses, mules, domesticated deer, camelids, all creatures of

1 *the rattle family that are not indigenous to this state, including, but not*
2 *limited to, ostriches, emus and rheas, and any other animal as deemed*
3 *necessary by the animal health commissioner established through rules*
4 *and regulations.*

5 Sec. 4. K.S.A. 47-121 is hereby amended to read as follows: 47-121.
6 That any person or persons other than the owner or his such owner's
7 authorized agent who shall willfully drive or cause to be driven any horses,
8 cattle, mules, sheep or swine or other domestic animals livestock further
9 from their usual and customary range than the nearest corral obtainable
10 without the written consent of the owner, or who shall neglect to return
11 such horses, mules, cattle, sheep or swine or other domestic animals
12 livestock immediately to their accustomed range, shall in either case be
13 deemed guilty of a misdemeanor, and on conviction thereof shall be
14 punished by imprisonment in the county jail not exceeding ninety days, or
15 by a fine of not less than twenty-five dollars \$100 nor more than one
16 hundred dollars \$1,000, or by both such fine and imprisonment, in the
17 discretion of the court.

18 Sec. 5. K.S.A. 47-122 is hereby amended to read as follows: 47-122.
19 It shall be unlawful for any domestic animal, other than dogs and cats,
20 livestock to run at large.

21 Sec. 6. K.S.A. 47-237 is hereby amended to read as follows: 47-237.
22 If any person shall unlawfully take up any stray or fails to comply with the
23 provisions of this act or uses or works such stray before giving notice or
24 shall drive the same on any premises for the purpose of unlawfully taking
25 up the same, or shall keep the same out of the county when taken up more
26 than five days at one time before sale, he such person shall be guilty of a
27 misdemeanor and upon conviction thereof shall be punished by a fine of
28 not exceeding one hundred dollars \$500, or by imprisonment for not
29 exceeding thirty 30 days, or by both such fine and imprisonment.

30 Sec. 7. K.S.A. 47-238 is hereby amended to read as follows: 47-238.
31 After the sheriff has received notice of the taking up of any stray, and the
32 ownership not having been established, the sheriff shall advertise such
33 stray in the area where taken up, and shall cause the stray animal to be
34 delivered to a public livestock market or to a terminal livestock market,
35 and shall sell or cause said such stray animal to be sold at such a market to
36 the highest bidder for cash. ~~Provided~~. Such advertisement shall be at least
37 seven (7) days before sale date, and such sale date shall be at least twenty-
38 one (21) days after the date the stray was reported to the sheriff.

39 Sec. 8. K.S.A. 47-419 is hereby amended to read as follows: 47-419.
40 When any brand is recorded, as provided herein, the owner thereof shall be
41 entitled to one certified copy of the record of such brand from the
42 commissioner. Additional certified copies of such record may be obtained
43 by anyone upon the payment of a fee in an amount fixed by the

Strike "animal"

1 commissioner and approved by the director of accounts and reports under
2 ~~K.S.A. 45-204~~ for each copy.

registered with the animal health
commissioner of the Kansas department
of agriculture

3 Sec. 9. K.S.A. 47-422 is hereby amended to read as follows: 47-422.
4 (a) Any brand recorded with the requirements of this act shall be the
5 ~~commissioner~~ in compliance with the requirements of this act shall be the

Such brand
animal health

6 property of the person causing such record to be made and shall be subject
7 to sale, assignment, transfer, devise, and descent as other personal
8 property. Instruments of writing evidencing the sale, assignment or transfer
9 of such brand shall be recorded by the ~~livestock~~ commissioner, and the fee

insert " " and capitalize "the"
insert " " and capitalize "a"

10 shall have the same force and effect as recorded instruments affecting real
11 estate, and a certified copy of the record of any such instrument may be
12 introduced in evidence the same as is now provided for certified copies of
13 instruments affecting real estate. Any brand recorded with the Kansas
14 animal health department ~~commissioner~~ shall not be used by any person
15 other than the recorded owner.

Kansas department of agriculture division
of animal health

16 (b) Any person violating any provision of this section shall be guilty
17 of a class C misdemeanor.

18 (c) In addition to the penalties provided in subsection (b), the
19 commissioner, after providing notice and opportunity for a hearing in
20 accordance with the Kansas administrative procedure act, may assess a
21 civil penalty against any person who violates or fails to comply with the
22 requirements of this act, or any rules or regulations adopted hereunder, of
23 not less than \$100 nor more than \$1,000 per violation. A separate civil
24 penalty may be assessed for each separate violation. Such civil penalty
25 may be assessed in addition to any other penalty provided by law.

26 Sec. 10. K.S.A. 47-424 is hereby amended to read as follows: 47-424.

27 The commissioner shall from time to time cause to be published in book
28 form or produce in electronic format, a list of all brands and marks on
29 record at the time of such publication. Such lists may be supplemented
30 from time to time. Such publication or production shall contain a facsimile
31 of all brands recorded, together with the owner's name and post-office
32 address. Said Such records shall be arranged in convenient form for
33 reference. The commissioner shall send, to the sheriff of each county, one
34 copy of said such brand book and supplement thereto or electronically
35 formatted copy thereof, which shall be kept as a matter of public record.
36 The commissioner may exchange brand books and supplements thereto or
37 electronically formatted copies thereof with livestock brand
38 commissioners and directors of other states, and with the executive officer
39 of a statewide organization of any other state which is charged with
40 administration of brand laws of such state. The commissioner may make
41 other distribution of brand books and supplements or electronically
42 formatted copies thereof without charge, to Kansas licensed veterinarians
43

1 and licensed public livestock market operators, when he the commissioner
2 deems such distribution desirable and an aid to the effective administration
3 of the brand laws of this state. Said Such books or electronically formatted
4 copies of the production may be sold to the general public at a price to be
5 determined by the commissioner which shall be based on the cost of
6 printing or storing, preparation and postage.

7 Sec. 11. K.S.A. 47-656 is hereby amended to read as follows: 47-656-
8 (a) Any person violating the provisions of this act shall be guilty of a
9 misdemeanor and fined in a sum not less than \$10 \$100 or more than \$100-
10 \$500 for such offense.

11 ~~(b) The animal health commissioner of the Kansas department of
12 agriculture, after providing notice and opportunity for a hearing in
13 accordance with the Kansas administrative procedure act, may assess a
14 civil penalty against any person who violates or fails to comply with the
15 requirements of K.S.A. 47-654 or 47-655, and amendments thereto, or any
16 rules or regulations adopted thereunder of not less than \$100 nor more
17 than \$1,000 per violation. A separate civil penalty may be assessed for
18 each separate violation. Such civil penalty may be assessed in addition to
19 any other penalty provided by law.~~

20 Sec. 1211. K.S.A. 47-1001 is hereby amended to read as follows: 47-
21 1001. As used in this act, except where the context clearly indicates a
22 different meaning:

23 (a) "Commissioner" means the livestock animal health commissioner
24 of the state of Kansas department of agriculture.

25 (b) "Livestock" means and includes cattle, bison, swine, sheep, goats,
26 horses, mules, domesticated deer, camels, domestic poultry, domestic
27 waterfowl, all creatures of the raitte family that are not indigenous to this
28 state, including, but not limited to, ostriches, emus and rheas, and any
29 other animal as deemed necessary by the commissioner established
30 through rules and regulations.

31 (c) "Person" means and includes any individual, partnership,
32 corporation or association.

33 (d) "Producer" means any person engaged in the business of
34 breeding, grazing or feeding livestock.

35 (e) "Consignor" means any person who ships or delivers to any public
36 livestock market livestock for handling, sale or resale at a public livestock
37 market.

38 (f) "Public livestock market" means any place, establishment or
39 facility commonly known as a "livestock market," "livestock auction
40 market," "sales ring," "stockyard," "community sale" as such term is used
41 in article 10 of chapter 47 of the Kansas Statutes Annotated, and
42 amendments thereto, which includes any business conducted or operated
43 for compensation or profit as a public market for livestock, consisting of

Remove section 11 and
renumber sections accordingly

1 the commissioner may refuse to grant a license, or suspend or revoke a
2 license, upon a finding of the existence of any of the following facts:

3 ~~(a)~~ (1) That any provision of this act, order or rule and regulation
4 lawfully promulgated thereunder by the commissioner has been violated
5 by the licensee;

6 ~~(b)~~ (2) that the licensee has knowingly received on consignment or
7 sold at a public livestock market any stolen livestock, or mortgaged
8 livestock without authority of the lawful owner or mortgagee;

9 ~~(c)~~ (3) that the licensee was guilty of fraud or deception in the
10 procurement of such license;

11 ~~(d)~~ (4) that the licensee has violated the laws of the state, or official
12 regulations governing the interstate or intrastate movement, shipment or
13 transportation of any livestock;

14 ~~(e)~~ (5) that the licensee fails to practice measures of sanitation,
15 disinfection and inspection, as prescribed by law or by the commissioner,
16 of premises used for yarding, stabling, housing or holding of livestock; or

17 ~~(f)~~ (6) that there has been failure to keep records required by the
18 commissioner or a refusal on the part of the licensee to produce records of
19 transactions in the carrying on of the business for which such license is
20 granted, or that the licensee selling livestock by weight fails or refuses to
21 have livestock handled by such licensee weighed on scales that are
22 regularly inspected and tested for accuracy by duly authorized public
23 authority or authorities;

24 (7) that there has been failure to make timely remittances of fees due
25 under the act to the commissioner; or

26 (8) ~~that the licensee has engaged in or used any unfair, unjust, or~~
27 ~~discriminatory or deceptive practices in connection with receiving,~~
28 ~~marketing, buying, selling on a commission basis or otherwise, feeding,~~
29 ~~weighing, holding, delivery, shipment, weighing or handling of livestock.~~

30 (b) Notwithstanding the provisions of subsection (a), nothing shall
31 preclude the commissioner from issuing an emergency order in
32 accordance with K.S.A. 77-536, and amendments thereto, to suspend the
33 license of a public livestock market for the following reasons:

34 (1) If the bond or bond equivalent as described in K.S.A. 47-1002,
35 and amendments thereto, for a livestock market operator expires or is
36 terminated and no valid replacement bond or bond equivalent has been
37 filed with the commissioner at the time expiration of such surety occurs;

38 or

39 (2) if a shortage exists in any of the licensee's custodial accounts
40 which the commissioner determines to endanger the public welfare.

41 Sec. 15. K.S.A. 2011 Supp. 47-1008 is hereby amended to read as
42 follows: 47-1008. (a) Livestock shall not be offered for sale or sold at any
43 licensed public livestock market if such livestock:

that the licensee has failed to properly
maintain custodial accounts or bonds.

1 (1) Is infected with a disease that permanently renders the livestock
2 unfit for human consumption;

3 (2) has severe neoplasia;

4 (3) has severe actinomycosis;

5 (4) is unable to rise to its feet by itself; or

6 (5) has an obviously fractured long bone or other fractures or
7 dislocation of a joint that renders the livestock unable to bear weight on
8 the affected limb without that limb collapsing.

9 (b) If, in the judgment of an accredited veterinarian, the livestock
10 consigned and delivered on the premises of any licensed public livestock
11 market is in any of the conditions described in subsection (a), such
12 veterinarian shall euthanize humanely the livestock or direct the consignor
13 to immediately remove the livestock from the premises of the public
14 livestock market. All expenses incurred for euthanasia and disposal of the
15 livestock under the provisions of this subsection shall be the responsibility
16 of the consignor. Collection of expenses shall not be the responsibility of
17 the consignee.

18 (c) All livestock consigned and delivered on the premises of any
19 licensed public livestock market, before being offered for sale, shall be
20 inspected by a veterinarian authorized by the commissioner who shall
21 visually examine or test, or both, each animal consigned to such market,
22 for the purpose of determining its condition of health and freedom of
23 clinical signs of infectious or contagious animal diseases that are
24 determined to be reportable by the ~~livestock~~ animal health commissioner. Such
25 regulatory veterinary services shall be contracted for by the ~~livestock~~
26 animal health commissioner, who shall select an accredited veterinarian for each public
27 livestock market. The public livestock market operator, for each public
28 livestock market, shall submit to the ~~livestock~~ animal health commissioner a list of
29 accredited veterinarians to be considered for the position ~~or positions~~.
30 Such veterinarian shall be authorized to make all required examinations
31 and tests, and to issue certificates of inspection at the public livestock
32 market where such veterinarian serves. All livestock sold, resold,
33 exchanged or transferred, or offered for sale or exchange at a livestock
34 market shall be treated as may be necessary to prevent the spread of
35 contagious or infectious diseases. A certificate of inspection, on a form to
36 be approved by the commissioner, shall be issued to the purchaser by the
37 inspector. For the visual inspection of livestock offered for sale, there shall
38 be collected by the market operator from the consignor a fee which shall
39 be determined by negotiation between the market operator and the market
40 veterinarian but shall not be less than \$.07 per head, except that no fee for
41 inspection shall be collected unless the inspection actually has been made.
42 If the charges per head collected on all livestock inspected at a livestock
43 market on any sales day do not amount to a minimum per diem of \$40 or

1 any amount greater than \$40 negotiated by the operator, the market
 2 operator shall be required to supply sufficient funds to provide such
 3 amount. Any amount lesser or greater than the \$40 amount specified, shall
 4 be determined by negotiation between the market operator and the market
 5 veterinarian. A copy of any agreement or contract shall be on file with the
 6 commissioner. Payments for veterinary services rendered under a contract
 7 as provided in this section shall be paid from the veterinary inspection fee
 8 fund, and for such services rendered prior to the end of a fiscal year,
 9 payment may be made within 90 days after the end of the fiscal year.

10 (d) Livestock market operators shall pay amounts received and
 11 amounts due under this section to the livestock commissioner. The
 12 commissioner shall remit all such amounts received to the state treasurer in
 13 accordance with the provisions of K.S.A. 75-4215, and amendments
 14 thereto. Upon receipt of each such remittance, the state treasurer shall
 15 deposit the entire amount in the state treasury to the credit of the veterinary
 16 inspection fee fund. All expenditures from such fund shall be made in
 17 accordance with appropriation acts upon warrants of the director of
 18 accounts and reports issued pursuant to vouchers approved by the
 19 commissioner or by a person or persons designated by such commissioner.

20 (e) The livestock commissioner shall promulgate rules and
 21 regulations as may be necessary to carry out the purposes of this section,
 22 including, but not limited to, rules and regulations designating any disease
 23 as a disease that renders livestock or the carcasses thereof permanently
 24 unfit for human consumption. The livestock commissioner shall
 25 promulgate all such rules and regulations in accordance with existing
 26 antemortem inspection regulations promulgated by the United States
 27 department of agriculture food safety and inspection service, as in effect
 28 on July 1, 1997, requirements in the federal meat inspection act, 21 U.S.C.
 29 § 601 et seq. and the federal poultry products inspection act, 21 U.S.C. §
 30 451 et seq. and regulations promulgated thereunder.

31 (f) All livestock sold by a licensed electronic auction, before being
 32 delivered to an out-of-state buyer, shall have a health certificate issued by
 33 a licensed, accredited veterinarian. Kansas buyers shall be furnished a
 34 health certificate upon request.
 35 Sec. 16. K.S.A. 47-1010 is hereby amended to read as follows: 47-
 36 1010. (a) In addition to the penalties provided in subsection (b), any
 37 person shall be guilty of a misdemeanor and, upon conviction, shall be
 38 punished by a fine of not less than two hundred dollars (\$200) \$100 or
 39 more than five hundred dollars (\$500) \$1,000, who commits any of the
 40 following acts:

- 41 (A) (1) Assumes or attempts to act as a public livestock market
- 42 operator without a license;
- 43 (A) (2) imposes false charges for handling or services in connection

animal health

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1 with livestock handled, sold or offered for sale at a public livestock
2 market;

3 ~~(e)~~ (3) fails to account promptly, correctly and fully for any livestock
4 sold or handled by him and properly to make settlements therefor; 6;

5 ~~(f)~~ (4) makes false or misleading statements as to market conditions
6 at any public livestock market conducted or operated by him or by the
7 person making such statement or for whom such individual is in the
8 employment of;

9 ~~(e)~~ (5) makes any false or misleading statements as to the health or
10 physical condition of the livestock or quantity of livestock shipped or sold;

11
12 ~~(6) engages in or uses any unfair, unjust, discriminatory or~~
13 ~~deceptive practices in connection with receiving, marketing, buying,~~
14 ~~selling or a commission basis or otherwise, feeding, watering, holding,~~
15 ~~delivery, shipment, weighing or handling livestock; or~~

16 ~~(f)~~ (7) fails to comply in any respect with this act and any and all
17 lawful rules, regulations and orders of the commissioner issued and
18 promulgated hereunder.

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19 (b) The commissioner, upon finding that a person has violated any
20 provision of K.S.A. 47-1001 et seq., and amendments thereto, or any rule
21 or regulation adopted thereunder, after notice and opportunity for a
22 hearing are given in accordance with the provisions of the Kansas
23 administrative procedure act, may impose a civil penalty in an amount not
24 more than \$5,000 per violation. For the purposes of this section,
25 violations shall include, but not be limited to, acts recognized in
26 subsection (a) and acts or omissions which are grounds for administrative
27 action pursuant to K.S.A. 47-1005, and amendments thereto.

28 (c) In the case of a continuing violation, every day such violation
29 continues shall be deemed a separate violation for the purposes of
30 assessing civil penalties therefor. Such civil penalty may be assessed in
31 addition to any other penalty provided by law. The recipient of a civil
32 penalty may appeal the order to the district court in the manner provided
33 by the Kansas judicial review act.

34 (d) Any penalty recovered pursuant to this section shall be remitted to
35 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
36 and amendments thereto. Upon receipt of each such remittance, the state
37 treasurer shall deposit the entire amount in the state treasury to the credit
38 of the state general fund.

39 Sec. 17. K.S.A. 47-1102 is hereby amended to read as follows: 47-
40 1102. (a) Every Any person, firm or corporation violating or failing to
41 comply with any of the provisions of this act shall be deemed guilty of a
42 misdemeanor, and upon conviction shall be punished by a fine of not more
43 than five hundred dollars or \$1,000, by imprisonment in the county jail for

1 not less than sixty 60 days nor more than six months or by both such fine
2 and imprisonment.

3 Sec. 18. K.S.A. 47-1213 is hereby amended to read as follows: 47-
4 1213. The commissioner, after providing notice and opportunity for a
5 hearing in accordance with the Kansas administrative procedure act, shall
6 have power to suspend or revoke any license or permit issued under this
7 act for the failure or refusal of any licensee or permit holder to obey and
8 comply with the provisions of this act and all rules and regulations
9 authorized and adopted thereunder except that before any such license or
10 permit is suspended or revoked the licensee or permit holder shall be
11 notified of the alleged violations and the time and place of hearing thereon,
12 as fixed by the commissioner, and a hearing shall be conducted in
13 accordance with the provisions of the Kansas administrative procedure act.

14 Sec. 19. K.S.A. 47-1217 is hereby amended to read as follows: 47-
15 1217. (a) The willful violation of any of the provisions of this act, or the
16 willful failure to comply with any of the provisions of this act, or any of
17 the rules and regulations adopted thereunder, is hereby made a
18 misdemeanor, and any person upon conviction thereof shall be punished
19 by a fine of not less than twenty-five dollars \$25 nor more than five-
20 hundred dollars \$500. It shall be the duty of the attorney general and the
21 various county attorneys, to file suit in a court of competent jurisdiction to
22 enjoin any violation of this act or any rule or regulation authorized and
23 adopted under the provisions of this act.

24 (b) The commissioner, after providing notice and opportunity for a
25 hearing in accordance with the Kansas administrative procedure act, may
26 assess a civil penalty against any person who violates or fails to comply
27 with the requirements of this act, or any rules or regulations adopted
28 hereunder, of not less than \$100 nor more than \$1,000 per violation. A
29 separate civil penalty may be assessed for each separate violation. Such
30 civil penalty may be assessed in addition to any other penalty provided by
31 law.

32 Sec. 20. K.S.A. 47-1219 is hereby amended to read as follows: 47-
33 1219. (a) Any person or persons who shall put any dead animals, carcasses
34 of such animals or domestic fowl, or any part thereof, into any well,
35 spring, brook, branch, river, creek, pond, road, street, alley, lane, lot, field,
36 meadow or common shall be deemed guilty of a misdemeanor, and upon
37 conviction thereof shall be fined in a sum not exceeding \$100 \$500.

38 (b) Any owner or owners of any dead animals, carcasses of such
39 animals or domestic fowl, or any part thereof, who shall knowingly permit
40 the same to remain in any well, spring, brook, branch, river, creek, pond,
41 road, street, alley, lane, lot, field, meadow or common to the injury of the
42 health or to the annoyance of or damage to the citizens of the state or any
43 of them, shall be deemed guilty of a misdemeanor, and upon conviction

lane other than the person's own private driveway, lot not owned or leased by such person, field not owned or leased by such person, meadow not owned or leased by such person or commonly-owned or public property to the injury of,

lane other than the person's own private driveway, lot not owned or leased by such person, field not owned or leased by such person, meadow not owned or leased by such person or commonly-owned or public property

(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, rattes, domesticated deer or domestic fowl.

(e) "Animal breeder" means any person who operates animal breeder premises.

(f) "Animal breeder premises" means any premises where all or part of six or more litters of dogs or cats, or both, or 30 or more dogs or cats, or both, are sold, or offered or maintained for sale, primarily at wholesale for resale to another.

(g) "Animal shelter" or "pound" means a facility which is used or designed for use to house, contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. Animal shelter or pound also includes a facility of an individual or organization, profit or nonprofit, maintaining 20 or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining the animals or offering the animals for adoption.

(h) "Cat" means an animal which is wholly or in part of the species *Felis domesticus*.

(i) "Commissioner" means the livestock animal health commissioner appointed by of the Kansas animal health board department of agriculture.

(j) "Dog" means any animal which is wholly or in part of the species *Canis familiaris* but does not include any greyhound, as defined by K.S.A. 74-8802 and amendments thereto.

(k) "Animal control officer" means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, dog warden, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(l) "Euthanasia" means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718, and amendments thereto.

(m) "Hobby breeder premises" means any premises where all or part of 3, 4 or 5 three, four or five litters of dogs or cats, or both, are produced for sale or sold, offered or maintained for sale per license year. This provision applies only if the total number of dogs or cats, or both, sold, offered or maintained for sale is less than 30 individual animals.

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1 principal or agent, or who holds such distributor's self out to be so
2 engaged.

3 (bb) "Out-of-state distributor" means any person residing in a state
4 other than Kansas, who is engaged in the business of buying for resale
5 dogs or cats, or both, within the state of Kansas, as a principal or agent.

6 (cc) "Food animals" means rodents, rabbits, reptiles, fish or
7 amphibians that are sold or offered or maintained for sale for the sole
8 purpose of being consumed as food by other animals.

9 (dd) ~~(+)~~ "Adequate veterinary medical care" means:

10 ~~(A)~~ (1) A documented program of disease control and prevention,
11 euthanasia and routine veterinary care shall be established and maintained
12 under the supervision of a licensed veterinarian, on a form provided by the
13 commissioner, and shall include a documented on-site visit to the premises
14 by the veterinarian at least once a year; ~~and~~

15 ~~(B)~~ (2) that diseased, ill, injured, lame or blind animals shall be
16 provided with veterinary care as is needed for the health and well-being of
17 the animal.

18 ~~(2) As used in the Kansas pet animal act, "adequate veterinary~~
19 ~~medical care" shall not apply to United States department of agriculture~~
20 ~~licensed animal breeders or animal distributors:~~

21 (ee) "Rattles" means all creatures of the rattle family that ~~are~~ are not
22 indigenous to this state, including, but not limited to, ostriches, emus and
23 theas.

24 (ff) "Retail breeder" means any person who operates a retail breeder
25 premises.

26 (gg) "Retail breeder premises" means any premises where all or part
27 of six or more litters or 30 or more dogs or cats, or both, are sold, or
28 offered or maintained for sale, primarily at retail and not for resale to
29 another.

30 (hh) "Retail" means any transaction where the animal is sold to the
31 final consumer.

32 (ii) "Wholesale" means any transaction where the animal is sold for
33 the purpose of resale to another.

34 Sec. 27. K.S.A. 2011 Supp. 47-1706 is hereby amended to read as
35 follows: 47-1706. (a) The commissioner may refuse to issue or renew or
36 may suspend or revoke any license or permit required under K.S.A. 47-
37 1701 *et seq.*, and amendments thereto, for any one or more of the
38 following reasons:

39 (1) Material misstatement in the application for the original license or
40 permit, or in the application for any renewal of a license or permit;

41 (2) willful disregard of any provision of the Kansas pet animal act or
42 any rule and regulation adopted hereunder, or any willful aiding or
43 abetting of another in the violation of any provision of the Kansas pet

, and such veterinary care shall be
documented and maintained on the
premises; and

(3) all documentation required by
subsections (dd)(1) and (dd)(2) shall be
made available to the commissioner or the
commissioner's authorized representative
for inspection or copying upon request
and shall be maintained for three years
after the effective date of the program or
the administration of such veterinary care.

1 animal act or any rule and regulation adopted hereunder;

2 (3) permitting any license or permit issued hereunder to be used by an
3 unlicensed or unpermitted person or transferred to unlicensed or
4 unpermitted premises;

5 (4) the conviction of any crime relating to the theft of animals ~~or a~~
6 ~~first conviction of cruelty to animals;~~

7 (5) substantial misrepresentation;

8 (6) misrepresentation or false promise, made through advertising,
9 salespersons, agents or otherwise, in connection with the operation of
10 business of the licensee or permittee;

11 (7) fraudulent bill of sale;

12 (8) the housing facility or the primary enclosure is inadequate; ~~or~~

13 (9) the feeding, watering, sanitizing and housing practices at the
14 licensee's or permittee's premises are not consistent with the Kansas pet
15 animal act or the rules and regulations adopted hereunder;

16 (b) The commissioner shall refuse to issue or renew and shall suspend
17 or revoke any license or permit required under K.S.A. 47-1701 *et seq.*, and
18 amendments thereto, for the ~~second or subsequent~~ conviction of cruelty
19 to animals, K.S.A. 21-4310, prior to its repeal, or subsections (a)(1)
20 through (a)(5) of K.S.A. 2011 Supp. 21-6412, and amendments thereto.

21 (c) Any refusal to issue or renew a license or permit, and any
22 suspension or revocation of a license or permit, under this section shall be
23 *issued only after notice and opportunity for a hearing are provided* in
24 accordance with the provisions of the Kansas administrative procedure act
25 and shall be subject to review in accordance with the Kansas judicial
26 review act.

27 (d) *Notwithstanding subsection (c), nothing shall preclude the*
28 *commissioner from issuing a quarantine order in accordance with K.S.A.*
29 *77-536, and amendments thereto, on any premises regulated under this act*
30 *wherein the animals are found to be infected with a contagious or zoonotic*
31 *disease which may infect animals or humans that may come into contact*
32 *with or be exposed to such animals.*

33 (e) Whenever the commissioner denies, suspends or revokes a
34 license or permit under this section, the commissioner or the
35 commissioner's authorized, trained representatives shall seize and impound
36 any animals in the possession, custody or care of the person whose license
37 or permit is denied, suspended or revoked if there are reasonable grounds
38 to believe that the animals' health, safety or welfare is endangered. Except
39 as provided by K.S.A. 2011 Supp. 21-6412, and amendments thereto, such
40 animals may be returned to the person owning them if there is satisfactory
41 evidence that the animals will receive adequate care by that person or such
42 animals may be sold, placed or euthanized, at the discretion of the
43 commissioner. Costs of care and services for such animals while seized

Strike

(10) failure to provide adequate veterinary medical care to the animals in such license or permittee's custody or care; or
(11) failure to maintain or provide documentation of the provision of adequate veterinary medical care, as required in K.S.A. 47-1701(dd), and amendments thereto, to animals in such license or permittee's custody or care when access to such is requested by the commissioner or the commissioner's authorized representatives.

1 and impounded shall be paid by the person from whom the animals were
 2 seized and impounded, if that person's license or permit is denied,
 3 suspended or revoked. Such funds shall be paid to the commissioner for
 4 reimbursement of care and services provided during seizure and
 5 impoundment. If such person's license or permit is not denied, suspended
 6 or revoked, the commissioner shall pay the costs of care and services
 7 provided during seizure and impoundment.

8 Sec. 28. K.S.A. 2011 Supp. 47-1707 is hereby amended to read as
 9 follows: 47-1707. (a) In addition to or in lieu of any other civil or criminal
 10 penalty provided by law, the commissioner, upon a finding that a person
 11 has violated or failed to comply with any provision of the Kansas pet
 12 animal act or any rule and regulation adopted hereunder, may impose on
 13 such person a civil ~~fine~~ penalty not exceeding \$1,000 for each violation or
 14 ~~requirement~~ require such person to attend an educational course regarding
 15 animals and their care and treatment. If the commissioner imposes the
 16 educational course, such person may choose either the ~~fine~~ or the penalty
 17 educational course. If such person chooses the ~~fine~~, the commissioner shall
 18 establish the amount pursuant to the ~~fine~~ provisions of this section. The
 19 educational course shall be administered by the commissioner in
 20 consultation with Kansas state university college of veterinary medicine.

21 (b) Any imposition of a civil ~~fine~~ penalty pursuant to this section
 22 shall be only upon notice and ~~opportunity~~ for a hearing ~~entitled~~ in
 23 accordance with the Kansas administrative procedure act and shall be
 24 subject to review in accordance with the Kansas judicial review act.

25 (c) Whenever the commissioner has reasonable grounds to believe
 26 that a person or premises required to be licensed or permitted under the
 27 Kansas pet animal act has failed to comply with or has violated any
 28 provision of the Kansas pet animal act or any rule and regulation adopted
 29 hereunder and that the health, safety or welfare of animals in such person's
 30 possession, custody or care is endangered thereby, the commissioner shall
 31 seize and impound such animals using emergency adjudicative
 32 proceedings in accordance with the Kansas administrative procedure act.
 33 Except as provided by K.S.A. 2011 Supp. 21-6412, and amendments
 34 thereto, such animals may be returned to the person owning them if there
 35 is satisfactory evidence that the animals will receive adequate care by that
 36 person or such animals may be sold, placed or euthanized, at the discretion
 37 of the commissioner. Costs of care and services for such animals while
 38 seized and impounded shall be paid by the person from whom the animals
 39 were seized and impounded, if that person is found to be in violation of the
 40 Kansas pet animal act or any rules and regulations adopted hereunder.
 41 Such funds shall be paid to the commissioner for reimbursement of care
 42 and services provided during seizure and impoundment. If such person is
 43 not found to be in violation of the Kansas pet animal act or any rules and

1 (d) Any complaint filed with the commissioner shall be confidential
2 and shall not be released to any person other than employees of the
3 commissioner as necessary to carry out the duties of their employment.
4 (e) Any person making inspections under this section shall be trained
5 by the commissioner in reasonable standards of animal care.
6 (f) The commissioner may request a licensed veterinarian to assist in
7 any inspection or investigation made by the commissioner or the
8 commissioner's authorized representative under this section.
9 (g) Any person acting as the commissioner's authorized
10 representative for purposes of making inspections and conducting
11 investigations under this section who knowingly falsifies the results or
12 findings of any inspection or investigation or ~~the~~ intentionally fails or
13 refuses to make an inspection or conduct an investigation pursuant to this
14 section shall be guilty of a class A nonperson misdemeanor.
15 (h) No person shall act as the commissioner's authorized
16 representative for the purposes of making inspections and conducting
17 investigations under this section if such person has a beneficial interest in
18 a person required to be licensed or permitted pursuant to K.S.A. 47-1701
19 *et seq.*, and amendments thereto.
20 (i) Records of inspections pursuant to this section shall be maintained
21 in the office of the ~~Kansas animal health department~~. Records of a
22 deficiency or violation shall not be maintained for longer than three years
23 after the deficiency or violation is remedied.
24 (j) The commissioner shall, in consultation with Kansas state
25 university college of veterinary medicine, shall: (1) Continue procedures
26 to provide for pet animal training or updated training for authorized trained
27 representatives who inspect premises under the pet animal act and to allow
28 the owners of such facilities licensed or permitted under the pet animal act
29 to attend and participate at the training workshops for the authorized
30 trained representatives; and (2) make available to such owners and other
31 interested persons an inspection handbook describing the duties and
32 responsibilities of such authorized trained representatives.
33 (k) *If the commissioner or the commissioner's authorized*
34 *representative is denied access to any location where such access is*
35 *sought for the purposes authorized under the Kansas pet animal act, the*
36 *commissioner may apply to any court of competent jurisdiction for an*
37 *administrative search warrant authorizing access to such location for such*
38 *purposes. Upon such application and a showing of cause therefore, the*
39 *court shall issue the search warrant for the purposes requested.*
40 Sec. 31. K.S.A. 47-1710 is hereby amended to read as follows: 47-
41 1710. (a) An animal shall not be disposed of by an owner or operator of a
42 pound or of an animal shelter as a pound until after expiration of a
43 minimum of three full business days of custody during which the public

department of agriculture division of animal health

1 has clear access to inspect and recover the animal through time periods
2 ordinarily accepted as usual business hours. During such time of custody,
3 any owner or operator of such facility shall attempt to notify the owner or
4 custodian of any animal maintained or impounded by such facility if such
5 owner or custodian is known or reasonably ascertainable. Such an animal
6 may at any time be released to the legal owner, moved to a veterinary
7 hospital for treatment or observation, released in any manner, if such
8 animal was a gift animal to an animal shelter, or euthanized by a duly
9 incorporated humane society or by a licensed veterinarian if it appears to
10 an officer of such humane society or to such veterinarian that the animal is
11 diseased or disabled beyond recovery for any useful purpose.

12 (b) After the expiration of the holding period established in
13 subsection (a), the governing body of a political subdivision regulating the
14 operation of a pound shall have ownership of such animal and shall
15 determine the method of disposition of any animal. Any pound releasing
16 live animals to prospective owners shall comply with the provisions
17 established in K.S.A. 47-1731, and amendments thereto. Any *such*
18 proceeds derived from the sale or other disposition of such animals shall
19 be paid directly to the treasurer of the political subdivision, and no part of
20 such proceeds shall accrue to any individual.

21 (c) After the expiration of the holding period established in
22 subsection (a), the board of directors of any humane society operating an
23 animal shelter as a pound, shall have ownership of such animal and shall
24 determine the method of disposition of any animal. Any animal shelter
25 releasing live animals to prospective owners shall comply with the
26 provisions established in K.S.A. 47-1731, and amendments thereto. Any
27 *such* proceeds derived from such sale or disposition shall be paid directly
28 to the treasurer of the humane society and no part of such proceeds shall
29 accrue to any individual.

30 Sec. 32. K.S.A. 47-1711 is hereby amended to read as follows: 47-
31 1711. An animal control officer shall not be granted an animal distributor's,
32 retail breeder's, hobby breeder's or a pet shop operator's license. Each

animal breeder's,

33 application for any such license shall include a statement that neither the
34 applicant nor any of the applicant's employees is an animal control officer.
35 An animal control officer, upon taking custody of any animal in the course
36 of such officer's official duties, shall immediately make a record which
37 shall include the color, breed, sex, approximate weight and other
38 description of the animal, the reason for seizure, the location of seizure,
39 the owner's name and address, if known, the animal license number, and
40 any other identification number. Complete information relating to the
41 disposition of the animal shall be shown on the record; ~~this and~~ shall be
42 added immediately following the disposition of the animal. *Such records*
43 *shall be made available to the commissioner or the commissioner's*

authorized representative upon request.

1
2 Sec. 33. K.S.A. 47-1712 is hereby amended to read as follows: 47-
3 1712. (a) The commissioner is hereby authorized to adopt rules and
4 regulations for licensees and permittees. Such rules and regulations shall
5 include, but not be limited to, provisions relating to: (1) Reasonable
6 treatment of animals in the possession, custody or care of a licensee or
7 permittee or being transported to or from licensed or permitted premises;
8 (2) a requirement that each licensee and permittee file with the
9 commissioner evidence that animals entering or leaving the state are free
10 from any visible symptoms of communicable disease; (3) identification of
11 animals handled; (4) primary enclosures; (5) housing facilities; (6)
12 sanitation; (7) euthanasia; (8) ambient temperatures; (9) feeding; (10)
13 watering; (11) adequate veterinary medical care; (12) inspections of
14 licensed or permitted premises, investigations of complaints and training
15 of persons conducting such inspections and investigations; and (13) a
16 requirement that each licensee or permittee keep and maintain, for
17 inspection by the commission, such records as necessary to administer and
18 enforce the provisions of the Kansas pet animal act.

19 (b) The commissioner shall only adopt as rules and regulations for
20 United States department of agriculture licensed animal distributors and
21 animal breeders, and animal distributor and animal breeder premises the
22 rules and regulations promulgated by the secretary of the United States
23 department of agriculture, cited at 9 C.F.R. §§ 3.1 through 3.12, pursuant
24 to the provisions of the United States public law 91-579 (7 U.S.C. § 2131
25 *et seq.*), commonly known as the animal welfare act.

26 ~~(c) Notwithstanding any provision in subsection (b), the~~
27 ~~commissioner may adopt a requirement that each licensee and permittee~~
28 ~~file with the commissioner evidence that animals entering or leaving the~~
29 ~~state are free from any visible symptoms of communicable disease.~~

30 Sec. 34. K.S.A. 47-1723 is hereby amended to read as follows: 47-
31 1723. (a) It shall be unlawful for any person, except a licensed
32 veterinarian, to act as or be a *boarding or training* kennel operator unless
33 such person has obtained from the commissioner a *boarding or training*
34 kennel operator license for each premises operated by such person.
35 Application for such license shall be made in writing on a form provided
36 by the commissioner. The license period shall be for the license year
37 ending on June 30 following the issuance date.

38 (b) This section shall be part of and supplemental to K.S.A. 47-1701
39 *et seq.*, and amendments thereto.

40 Sec. 35. K.S.A. 47-1725 is hereby amended to read as follows: 47-
41 1725. (a) There is hereby created the Kansas pet animal advisory board,
42 consisting of 10 members. Members shall be appointed by the governor as
43 follows:

Keep subsection (c), don't strike

- 1 (1) One member shall be a representative of a licensed animal shelter
2 or pound;
- 3 (2) one member shall be an employee of a licensed research facility;
4 (3) one member shall be a licensed animal breeder;
5 (4) one member shall be a licensed retail breeder;
6 (5) one member shall be a licensed pet shop operator;
7 (6) one member shall be a licensed veterinarian and shall be selected
8 from a list of three names presented to the governor by the Kansas
9 veterinary medical association;
- 10 (7) one member shall be a private citizen with no link to the industry;
11 (8) one member shall be a licensed animal distributor;
12 (9) one member shall be a licensed hobby breeder; and
13 (10) one member shall be a licensed *boarding or training* kennel
14 operator.
- 15 (b) ~~Of the members first appointed to the board, the governor shall~~
16 ~~designate three whose terms shall expire June 30, 1992, three whose terms~~
17 ~~shall expire June 30, 1993, and three whose terms shall expire June 30,~~
18 ~~1994. After the expiration of such terms, Each member shall be appointed~~
19 ~~for a term of three years and until a successor is appointed and qualified.~~
- 20 (c) A vacancy on the board of a member shall be filled for the
21 unexpired term by appointment by the governor.
- 22 (d) The board shall meet at least once every calendar quarter
23 regularly or at such other times as the chairperson or a majority of the
24 board members determine. A majority of the members shall constitute a
25 quorum for conducting board business.
- 26 (e) The members of the board shall annually elect a chairperson.
- 27 (f) The board shall have the following duties, authorities and powers:
- 28 (1) To advise the Kansas ~~livestock~~ commissioner on hiring a director
29 to implement the Kansas pet animal act;
- 30 (2) to review the status of the Kansas pet animal act;
- 31 (3) to make recommendations on changes to the Kansas pet animal
32 act; and
- 33 (4) to make recommendations concerning the rules and regulations
34 for the Kansas pet animal act.
- 35 (g) Board members who are required to be licensed except retail
36 breeders shall be affiliated with or a member of an organized pet animal
37 association which is representative of the position such person will hold on
38 the board.
- 39 (h) ~~Upon the effective date of this act, the governor shall appoint a~~
40 ~~licensed kennel operator. When the current board members' terms expire,~~
41 ~~the governor shall appoint persons or representatives in accordance with~~
42 ~~this section.~~
- 43 Sec. 36. K.S.A. 47-1727 is hereby amended to read as follows: 47-

animal health

1 (b) No person shall import, transport or possess live feral swine in
2 this state.

3 (c) No person shall intentionally or knowingly release any hog, boar,
4 pig or swine to live in a wild or feral state upon public or private land.

5 (d) ~~No person shall engage in, sponsor, or assist in the operation of a
6 contained hunting preserve of swine, whether such swine are feral or
7 otherwise, within this state. For the purposes of this subsection, any tract
8 of land on which a fence or other apparatus is used to prevent the free
9 roaming of swine which are to be hunted and not used solely for domestic
10 swine production shall be deemed to be a contained hunting preserve.~~

11 (e) (e) No person shall engage in, sponsor, instigate, assist or profit
12 from the release, killing, wounding or attempted killing or wounding of
13 feral swine for the purpose of sport, pleasure, amusement or production of
14 a trophy.

15 (e) (f) Violation of subsection (b) or (c) or (d) may result in a civil
16 penalty in the amount of not less than \$1,000 nor more than \$5,000 for
17 each such violation. In the case of a continuing violation, every day such
18 violation continues shall be deemed a separate violation.

19 (g) (g) Violation of subsection (d) (e) may result in a civil penalty of
20 not less than \$250 nor more than \$2,500 for each such violation.

21 (h) (h) Any duly authorized agent of the ~~Hvesteek animal health~~
22 commissioner, upon a finding that any person, or agent or employee
23 thereof, has violated any of the provisions stated above, may impose a
24 civil penalty upon such person as provided in this section.

25 (i) (i) No civil penalty shall be imposed pursuant to this section
26 except upon the written order of the duly authorized agent of the ~~Hvesteek~~
27 ~~animal health~~ commissioner to the person who committed the violation.

28 Such order shall state the violation, the penalty to be imposed and the right
29 of the person ~~to appeal to the commissioner to request a hearing in the~~
30 ~~matter.~~ Any such person, within 20 days after notification, may make
31 written request to the commissioner for a hearing in accordance with the
32 provisions of the Kansas administrative procedure act. ~~The commissioner~~
33 ~~shall affirm, reverse or modify the order and shall specify the reasons~~
34 ~~therefor.~~

35 (j) (j) Any person aggrieved by an order of the commissioner made
36 under this section may appeal such order to the district court in the manner
37 provided by the Kansas judicial review act.

38 (k) (k) Any civil penalty recovered pursuant to the provisions of this
39 section shall be remitted to the state treasurer in accordance with the
40 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
41 each such remittance, the state treasurer shall deposit the entire amount in
42 the state treasury to the credit of the state general fund.

43 (l) (l) ~~The Hvesteek animal health commissioner of the Kansas~~

Strike extra "to"

1 partnership, two or more persons having a joint or common interest or
2 other legal entity.

3 (h) "Possession" means actual care, custody, control or management.
4 (i) "Research facility" means any place, laboratory, institution,
5 medical care facility, elementary school, secondary school, college or
6 university, at which any scientific test, experiment or investigation
7 involving the use of any living animal or field crop product is carried out,
8 conducted or attempted.

9 Sec. 42. K.S.A. 47-2306 is hereby amended to read as follows: 47-
10 2306. Any person who shall violate any of the provisions of this act article
11 23 of chapter 47 of the Kansas Statutes Annotated, and amendments
12 thereto, shall be deemed guilty of a misdemeanor, and upon conviction
13 shall be punished by a fine of not less than \$25 \$100 nor more than \$500
14 \$1,000 or by imprisonment in the county jail for not less than 30 nor more
15 than 90 days, or by both such fine and imprisonment.

16 Sec. 43. K.S.A. 47-120, 47-121, 47-122, 47-237, 47-238, 47-419, 47-
17 422, 47-424, 47-619, 47-621, 47-636, 47-637, 47-638, 47-639, 47-641, 47-
18 642, 47-643, 47-644, 47-647, 47-648, 47-649, 47-650, 47-651, 47-652, 47-
19 653, 47-653d, 47-653e, 47-653f, 47-653g, 47-653h, 47-656, 47-666, 47-
20 667, 47-668, 47-669, 47-670, 47-671, 47-921, 47-922, 47-923, 47-1001,
21 47-1002, 47-1005, 47-1005b, 47-1010, 47-1102, 47-1213, 47-1217, 47-
22 1219, 47-1301, 47-1305, 47-1306, 47-1509, 47-1701, 47-1710, 47-1711,
23 47-1712, 47-1723, 47-1725, 47-1727, 47-1801, 47-1804, 47-1807 and 47-
24 2306 and K.S.A. 2011 Supp. 47-672, 47-1008, 47-1302, 47-1307, 47-
25 1706, 47-1707, 47-1708, 47-1709, 47-1809 and 47-1826 are hereby
26 repealed.

27 Sec. 44. This act shall take effect and be in force from and after its
28 publication in the statute book.

47-654, 47-655,