

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on February 23, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research  
Amy VanHouse, Legislative Research  
Lisa Montgomery, Office of the Revisor of Statutes  
Robert Myers, Committee Secretary

Conferees appearing before the committee:

Lisa Montgomery - Office of Revisor of Statutes  
Chris Wilson - Kansas Agricultural Aviation Association  
Tom Whitaker - Kansas Motor Carriers Association  
Eric Krug - Kansas Federation of Animal Owners  
Rebecca Mosshart of Nashville, Kansas  
Sam Mosshart of Protection, Kansas  
Martha Bartels of Marysville, Kansas  
Dale Lowe  
Rebecca Blaes - Licensed Kansas Animal Breeder Representative; Chairman, Kansas Pet Animal Advisory Board  
Sharon Munk of Menlo, Kansas  
Ellen Quernor - Kansas Animal Health Department  
Betty Westhoff of St. Paul, Kansas

Others attending:

See Attached List.

**SB 335:**        **Creating the Kansas propane safety and registration act.**

Chairman Schmidt called for final action on **SB 335**.

Lisa Montgomery appeared before the committee in order to provide a section-by-section overview of the language of the proposed substitute for **SB 335** (Attachment 1).

Senator Umbarger moved to adopt the proposed substitute for **SB 335**, seconded by Senator Huelskamp. The motion carried.

The committee continued its action on **SB 335** by suggesting the following technical changes to the language of the proposed substitute:

- Section 1( c )(1), line 1: insert the words *or marketer* before the word *shall*
- Section 1( c )(1), line 3: change *retail sale and transport* to *retail sale or retail transport*
- Section 3(a), line 3: strike the word *customer's* and replace it with *end retail user's*
- Section 3(d), line 3: strike the words *willful* and *wanton*
- Section 3(e), line 1: strike the word *Kansas*
- Section 3(f), line 4: strike the word *Kansas*
- Section 3(g), line 4: strike *willful and wanton* and replace it with *reckless or intentional*
- Section 6(a)(3), line 2: strike the word *marketer*

Senator Huelskamp moved to make the suggested technical changes to the proposed substitute for **SB 335**, seconded by Senator Umbarger. The motion carried.

Senator Huelskamp moved to insert the word *major* before the word *modification* in both Section 4(a), line 5 and Section 4(b), line 1 and to add *major modification* after *construction* in Section 4(a), line 1 of the proposed substitute for **SB 335**, seconded by Senator Umbarger. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 23, 2004 in Room 423-S of the Capitol.

Senator Lee moved to make the following additions to the proposed substitute for **SB 335**:

- Section 6(b)(1), line 1: insert the word *dealer* before the word *license*
- Section 6(b)(2), line 1: insert the words *bulk storage site* before the word *license*
- Section 6(b)(3), line 1: insert the words *cylinder transport* before the word *license*
- Section 6(b)(4), line 1: insert the words *cylinder filling* before the word *license*
- Section 6(b)(5), line 1: strike the word *license* and replace it with the words *recreational vehicle fueling permit*
- Section 6(b)(6), line 1: insert the words *cylinder exchange cabinet* before the word *license*
- Section 6(b)(7), line 1: insert the words *self-serve liquified petroleum gas dispensing* before the word *license*
- Section 6(b)(8), line 1: insert the words *installation and service of liquified petroleum gas systems* before the word *license*

Seconded by Senator Huelskamp. The motion carried.

Senator Umbarger moved to report the amended bill favorably for passage, seconded by Senator Corbin. The motion carried.

**SB 326:**      **Licensure requirements for pesticide businesses.**

Chairman Schmidt called for final action on **SB 326**.

Chris Wilson appeared before the committee in order to present a balloon that she had prepared to **SB 326** following a meeting with representatives of the Kansas Pest Control Association and the Kansas Agribusiness Retailers Association. She explained that the balloon makes aerial pesticide application a separate section (b) under KSA 2-2448, at the current levels (Attachment 2).

Senator Huelskamp moved to adopt the agreed upon amendment, seconded by Senator Tyson. The motion carried.

**SB 335:**      **Creating the Kansas propane safety and registration act.**

Technical changes to **SB 335** were brought to the attention of Chairman Schmidt. Discussion ensued regarding the changes.

Senator Huelskamp moved to reconsider the previous final action on **SB 335**, seconded by Senator Umbarger. The motion carried.

Senator Lee moved to strike in Section 3 subsection (g) from **SB 335**, seconded by Senator Huelskamp. The motion carried.

Senator Huelskamp moved to report the amended bill favorably for passage, seconded by Senator Umbarger. The motion carried.

**SB 472:**      **Motor carrier certificate exception for manure haulers.**

Chairman Schmidt opened the hearing on **SB 472**.

Tom Whitaker appeared before the committee as a neutral conferee with regard to **SB 472**. He stressed that his main objection to registering and filing insurance with the Transportation Division of the Kansas Corporation Commission is the requirement to maintain "cargo insurance." Furthermore, he stated that the Kansas Motor Carriers Association (KMCA) understands the potential difficulty of finding insurance for a commodity such as animal dung. He informed the committee that the KMCA is not against the passage of the bill, provided that the legislation is not expanded to include other commodities (Attachment 3).

Chairman Schmidt called for final action on **SB 472**.

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 23, 2004 in Room 423-S of the Capitol.

Senator Tyson moved to report the bill favorably for passage, seconded by Senator Taddiken. The motion carried.

Chairman Schmidt asked Senator Huelskamp to carry the bill on to the Senate floor. Senator Huelskamp accepted.

**SB 378: Inspections of kennels.**

Chairman Schmidt opened the hearing on **SB 378**.

Eric Krug appeared before the committee as a proponent of **SB 378**. He emphasized the adequacy of the state's inspection program by stating that it is designed for the regulation of both those that do abide by and those that consistently break the law in the animal breeding industry. With regard to the latter group, Mr. Krug stated that there continue to be illegal breeders and hoarders in the state, thus showing the importance of focusing the state inspection program on them as opposed to USDA facilities. Furthermore, he focused on the growth of the animal breeding industry, claiming that it has had a very negative impact on the budget of the Kansas Animal Health Department. He added, however, that the department stands to gain a revenue in excess of \$50,000.00 as a result of eliminating its inspection of USDA facilities, per the bill. In closing, he stated that many of the guidelines being set by the USDA parallel those already followed by the state, thus indicating the redundancy of continuing with dual inspections that are performed according to identical laws and guidelines (Attachment 4).

Eric Krug submitted to the committee a folder containing letters written by various individuals in support of **SB 378** (Attachment 5).

Rebecca Mosshart appeared before the committee as a proponent of **SB 378**. She focused her testimony on the reportedly small percentage of problems with USDA licensed kennels, stating the following statistics:

- As of February 1, 2004, there were approximately 411 USDA licensed kennels in the state
- Less than 1% of the USDA licensed kennels in the state (i.e., approximately 4 kennels) had been problematic for the Kansas Animal Health Department

She further stated her belief that the Kansas Animal Health Department would have more time and money to devote to the problem of those animal breeders not complying with the law if it did not have to inspect the approximately 411 USDA licensed kennels. In her opinion, the USDA can independently handle the small percentage (i.e., 1%) of problematic kennels that it has licensed in the state (Attachment 6).

Sam Mosshart appeared before the committee as a proponent of **SB 378**. He stated that one of the main benefits of implementing the bill would be the reduction of state funding needed by the Kansas Animal Health Department due to not requiring it to inspect USDA licensed facilities, and thus reducing its workload. Furthermore, Mr. Mosshart refuted the claim that the current dual inspection law makes Kansas a model state by saying that, as an individual within the pet dog industry, he has never once heard Kansas acclaimed as having model status with regard to its kennel inspection laws (Attachment 7).

Martha Bartels appeared before the committee as a proponent of **SB 378**. She expressed her belief that, during a time of such great need for making budget cuts, the state could use its money much more wisely than by continuing with the dual inspection process (Attachment 8).

Dale Lowe appeared briefly before the committee as a proponent of **SB 378**.

Senator Huelskamp submitted to the committee the following three pieces of written testimony:

1. A letter that he had received from Brad Harris, the Clark County Sheriff, written in support of **SB 378** (Attachment 9).
2. An email that he had received from Pam Franlin of Girard, Kansas, expressing her opinions and suggestions with regard to the kennel inspection process in the state (Attachment 10).
3. An agency overview of the Kansas Animal Health Department, providing primarily a budget summary (Attachment 11).

Rebecca Blaes appeared before the committee as an opponent of **SB 378**. She referred to the enforcement

## CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 23, 2004 in Room 423-S of the Capitol.

of the Animal Facilities Inspection Program in the early 1990's, stating that it was in response to the negative publicity and boycotts that had resulted from the failure of the USDA alone to improve the reputation of the Kansas Pet Industry. She further pointed out that, following the enforcement of this program, retailer confidence in the health of animals purchased in Kansas rose greatly (from 78% in 1990 to 100% in 2002). She also reported that, according to a controlled Licensed Animal Breeder Survey in September 2003, seventy-eight percent of breeders favored increased funding to support the Kansas Facilities Inspection Program. Finally, she expressed to the committee her belief that an exemption of the USDA facilities from the Kansas Inspection Program would lead to a great backslide into a once-again degraded pet industry in Kansas ([Attachment 12](#)).

Sharon Munk appeared before the committee as an opponent of **SB 378**. She began her testimony with a brief overview of the passing of the Kansas Animal Dealers Act in 1988, the 1990 boycott of Kansas-raised pets, and the subsequent appointment by the Governor's Office of the first advisory board. With regard to the current USDA and Kansas Animal Health Department (KAHD) inspection process, she reported the following to the committee:

- USDA and KAHD share inspection reports
- USDA notifies the state upon encountering a problem kennel
- KAHD inspectors mandatorily attend USDA training sessions
- KAHD inspectors attend 120 hours of schooling, in order to better allow an understanding of the legalities involved in inspections

Furthermore, she stated that although USDA inspections have indeed improved since prior to the 1990's, the only action taken in instances of violation is generally a mere write-up against the problem kennel. She also posed to the committee the potential problem of the USDA running into a budget crunch, and thus being left with insufficient inspectors. In closing, she declared the kennel inspection issue as one based on consumer confidence, comparing it to the brief outbreak of Mad Cow Disease in the United States. Along with her written testimony, Sharon submitted a bound booklet containing Kansas Pet Industry survey results and questions, relevant statutes, and a photocopied letter written by Rebecca Blaes among other items ([Attachments 13 and 14](#)).

Ellen Quernor appeared before the committee as an opponent of **SB 378**. She expressed to the committee her belief that the State needs to continue with its inspections, regardless of whether or not the USDA or any other body is performing them also. She asked that the committee listen closely to the opposing testimony, especially the reasons given by those in the breeding industry.

Betty Westhoff appeared before the committee as an opponent of **SB 378**. She expressed her willingness, as a member of the pet industry, to experience an increase in license fees in order to permit the continuance of the current dual inspection program by both the USDA and the Kansas Animal Health Department (KAHD). She noted the following statistics with regard to the Kansas Pet Industry before and after the implementation of the current inspection program:

- confidence in the health of Kansas-bred pets grew from 78%, in 1990, to 100%, in 2002
- in 1990, 59% of Kansas-bred animals had the same amount or fewer health problems than those originating in other states, whereas the number had risen to 97% by 2002

Finally, she stated that the inspection program in Kansas is perceived as a model for other states, claiming that Missouri is following our example with regard to its current program..She stated her belief that the implementation of this bill would only cause a negative step backwards for the Kansas Pet Industry ([Attachment 15](#)).

Mary Johnson of McCune, Kansas submitted written testimony to the committee in opposition to **SB 378** ([Attachment 16](#)).

Anita Baker of Iola Kansas submitted written testimony to the committee in opposition to **SB 378** ([Attachment 17](#)).

Donna Winder submitted written testimony to the committee in opposition to **SB 378** ([Attachment 18](#)).

Loren Pachta of Mahaska, Kansas submitted written testimony to the committee in opposition to **SB 378** ([Attachment 19](#)).

CONTINUATION SHEET

MINUTES OF THE SENATE AGRICULTURE COMMITTEE at 8:30 a.m. on February 23, 2004 in Room 423-S of the Capitol.

Connie Heidebrecht submitted written testimony to the committee in opposition to **SB 378** (Attachment 20).

Dorothy Brecheisen submitted written testimony to the committee in opposition to **SB 378** (Attachment 21).

Carol Stubbs, on behalf of the Helping Hands Humane Society, Inc., submitted written testimony to the committee in opposition to **SB 378** (Attachment 22).

Debra Duncan, on behalf of the Kansas Animal Health Department, submitted written testimony to the committee in opposition to **SB 378** (Attachment 23).

The committee received the August 2002 Performance Audit Report of animal breeders and sellers in Kansas, as composed by the Legislative Division of Post Audit (Attachment 24).

The committee received an historic overview of the Kansas Pet Animal Act (Attachment 25).

The next meeting is scheduled for Wednesday, March 3, 2004.