

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2005

## HOUSE BILL No. 2054

By Committee on Agriculture

1-13

12 AN ACT concerning animals; relating to the pet animal act; definitions;  
13 rules and regulations; fees; amending K.S.A. 47-1701 and 47-1712 and  
14 K.S.A. 2004 Supp. 47-1721 and repealing the existing sections.

15

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

17 Section 1. K.S.A. 47-1701 is hereby amended to read as follows: 47-  
18 1701. As used in the Kansas pet animal act, unless the context otherwise  
19 requires:

20 (a) “Adequate feeding” means supplying at suitable intervals (not to  
21 exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the  
22 animal species and age, and sufficient to maintain a reasonable level of  
23 nutrition in each animal.

24 (b) “Adequate watering” means a supply of clean, fresh, potable wa-  
25 ter, supplied in a sanitary manner and either continuously accessible to  
26 each animal or supplied at intervals suitable for the animal species, not  
27 to exceed intervals of 12 hours.

28 (c) “Ambient temperature” means the temperature surrounding the  
29 animal.

30 (d) (1) “Animal” means any live dog, cat, rabbit, rodent, nonhuman  
31 primate, bird or other warm-blooded vertebrate or any fish, snake or  
32 other cold-blooded vertebrate.

33 (2) Animal does not include horses, cattle, sheep, goats, swine, ratites,  
34 domesticated deer or domestic fowl, ~~except when such animal is being~~  
35 ~~housed at a state licensed animal pound or shelter.~~

36 (e) “Animal breeder” means any person who operates animal breeder  
37 premises.

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

42 (g) “Animal shelter” or “pound” means a facility which is used or  
43 designed for use to house, contain, impound or harbor any seized stray,

- 1 homeless, relinquished or abandoned animal or a person who acts as an  
2 animal rescuer, or who collects and cares for unwanted animals or offers  
3 them for adoption. Animal shelter or pound also includes a facility of an  
4 individual or organization, profit or nonprofit, maintaining 20 or more  
5 dogs or cats, or both, for the purpose of collecting, accumulating, amass-  
6 ing or maintaining the animals or offering the animals for adoption.
- 7 (h) “Cat” means an animal which is wholly or in part of the species  
8 *Felis domesticus*.
- 9 (i) “Commissioner” means the livestock commissioner appointed by  
10 the Kansas animal health board.
- 11 (j) “Dog” means any animal which is wholly or in part of the species  
12 *Canis familiaris* but does not include any greyhound, as defined by K.S.A.  
13 74-8802 and amendments thereto.
- 14 (k) “Animal control officer” means any person employed by, con-  
15 tracted with or appointed by the state, or any political subdivision thereof,  
16 for the purpose of aiding in the enforcement of this law, or any other law  
17 or ordinance relating to the licensing or permitting of animals, control of  
18 animals or seizure and impoundment of animals, and includes any state,  
19 county or municipal law enforcement officer, dog warden, constable or  
20 other employee, whose duties in whole or in part include assignments  
21 which involve the seizure or taking into custody of any animal.
- 22 (l) “Euthanasia” means the humane destruction of an animal, which  
23 may be accomplished by any of those methods provided for in K.S.A. 47-  
24 1718 and amendments thereto.
- 25 (m) “Hobby breeder premises” means any premises where all or part  
26 of 3, 4 or 5 litters of dogs or cats, or both, are produced for sale or sold,  
27 offered or maintained for sale. This provision applies only if the total  
28 number of dogs or cats, or both, sold, offered or maintained for sale is  
29 less than 30 individual animals.
- 30 (n) “Hobby breeder” means any person who operates a hobby  
31 breeder premises.
- 32 (o) “Housing facility” means any room, building or area used to con-  
33 tain a primary enclosure or enclosures.
- 34 (p) “Kennel operator” means any person who operates an establish-  
35 ment where four or more dogs or cats, or both, are maintained in any  
36 one week for boarding, training or similar purposes for a fee or  
37 compensation.
- 38 (q) “Kennel operator premises” means the facility of a kennel  
39 operator.
- 40 (r) “License year” or “permit year” means the 12-month period end-  
41 ing on June 30.
- 42 (s) “Person” means any individual, association, partnership, corpo-  
43 ration or other entity.

- 1 (t) (1) “Pet shop” means any premises where there are sold, or of-  
2 ferred or maintained for sale, at retail and not for resale to another:
- 3 (A) Any dogs or cats, or both; or (B) any other animals except those  
4 which are produced and raised on such premises and are sold, or offered  
5 or maintained for sale, by a person who resides on such premises.
- 6 (2) Pet shop does not include: (A) Any pound or animal shelter; (B)  
7 any premises where only fish are sold, or offered or maintained for sale;  
8 or (C) any animal distributor premises, hobby breeder premises, retail  
9 breeder premises or animal breeder premises.
- 10 (3) Nothing in this section prohibits inspection of those premises  
11 which sell only fish to verify that only fish are being sold.
- 12 (u) “Pet shop operator” means any person who operates a pet shop.
- 13 (v) “Primary enclosure” means any structure used or designed for  
14 use to restrict any animal to a limited amount of space, such as a room,  
15 pen, cage, compartment or hutch.
- 16 (w) “Research facility” means any place, laboratory or institution, ex-  
17 cept an elementary school, secondary school, college or university, at  
18 which any scientific test, experiment or investigation involving the use of  
19 any living animal is carried out, conducted or attempted.
- 20 (x) “Sale,” “sell” and “sold” include transfers by sale or exchange.  
21 Maintaining animals for sale is presumed whenever 20 or more dogs or  
22 cats, or both, are maintained by any person.
- 23 (y) “Sanitize” means to make physically clean and to remove and de-  
24 stroy, to a practical minimum, agents injurious to health, at such intervals  
25 as necessary.
- 26 (z) “Animal distributor” means any person who operates an animal  
27 distributor premises.
- 28 (aa) “Animal distributor premises” means the premises of any person  
29 engaged in the business of buying for resale dogs or cats, or both, as a  
30 principal or agent, or who holds such distributor’s self out to be so  
31 engaged.
- 32 (bb) “Out-of-state distributor” means any person residing in a state  
33 other than Kansas, who is engaged in the business of buying for resale  
34 dogs or cats, or both, within the state of Kansas, as a principal or agent.
- 35 (cc) “Food animals” means rodents, rabbits, reptiles, fish or amphib-  
36 ians that are sold or offered or maintained for sale for the sole purpose  
37 of being consumed as food by other animals.
- 38 (dd) ~~(1)~~ **(1)** “Adequate veterinary medical care” means:  
39 ~~(A)~~ ~~(1)~~ **(A)** A documented program of disease control and prevention,  
40 euthanasia and routine veterinary care shall be established and main-  
41 tained under the supervision of a licensed veterinarian, on a form pro-  
42 vided by the commissioner, and shall include a documented on-site visit  
43 to the premises by the veterinarian at least once a year; and

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

4 ~~(2) As used in the Kansas pet animal act, “adequate veterinary med-~~  
5 ~~ical care” shall not apply to United States department of agriculture li-~~  
6 ~~icensed animal breeders or animal distributors.~~

7 **(2) As used in the Kansas pet animal act, “adequate veterinary**  
8 **medical care” shall not apply to United States department of ag-**  
9 **riculture licensed animal breeders or animal distributors, except**  
10 **that the commissioner or licensed veterinarian may assure that**  
11 **such animal breeders or animal distributors have a documented**  
12 **program of adequate veterinary medical care. The commissioner**  
13 **or licensed veterinarian shall not require changes in such docu-**  
14 **mented program.**

15 (ee) “Ratites” means all creatures of the ratite family that *are* not  
16 indigenous to this state, including, but not limited to, ostriches, emus and  
17 rheas.

18 (ff) “Retail breeder” means any person who operates a retail breeder  
19 premises.

20 (gg) “Retail breeder premises” means any premises where all or part  
21 of six or more litters or 30 or more dogs or cats, or both, are sold, or  
22 offered or maintained for sale, primarily at retail and not for resale to  
23 another.

24 (hh) “Retail” means any transaction where the animal is sold to the  
25 final consumer.

26 (ii) “Wholesale” means any transaction where the animal is sold for  
27 the purpose of resale to another.

28 Sec. 2. K.S.A. 47-1712 is hereby amended to read as follows: 47-  
29 1712. (a) The commissioner is hereby authorized to adopt rules and reg-  
30 ulations for licensees and permittees. Such rules and regulations shall  
31 include, but not be limited to, provisions relating to: (1) Reasonable treat-  
32 ment of animals in the possession, custody or care of a licensee or per-  
33 mittee or being transported to or from licensed or permitted premises;  
34 (2) a requirement that each licensee and permittee file with the com-  
35 missioner evidence that animals entering or leaving the state are free from  
36 any visible symptoms of communicable disease; (3) identification of ani-  
37 mals handled; (4) primary enclosures; (5) housing facilities; (6) sanitation;  
38 (7) euthanasia; (8) ambient temperatures; (9) feeding; (10) watering; (11)  
39 adequate veterinary medical care; (12) inspections of licensed or permit-  
40 ted premises, investigations of complaints and training of persons con-  
41 ducting such inspections and investigations; and (13) a requirement that  
42 each licensee or permittee keep and maintain, for inspection by the com-  
43 mission, such records as necessary to administer and enforce the provi-

1 sions of the Kansas pet animal act.

2 (b) The commissioner shall only adopt as rules and regulations for  
3 United States department of agriculture licensed animal distributors and  
4 animal breeders, and animal distributor and animal breeder premises the  
5 rules and regulations promulgated by the secretary of the United States  
6 department of agriculture, ~~cited at 9 C.F.R. 3.1 through 3.12,~~ pursuant  
7 to the provisions of the United States public law 91-579 (7 U.S.C. § 2131  
8 et seq.), commonly known as the animal welfare act.

9 (c) Notwithstanding any provision in subsection (b), the commis-  
10 sioner may adopt a requirement that each licensee and permittee file with  
11 the commissioner evidence that animals entering or leaving the state are  
12 free from any visible symptoms of communicable disease.

13 Sec. 3. K.S.A. 2004 Supp. 47-1721 is hereby amended to read as  
14 follows: 47-1721. (a) Each application for issuance or renewal of a license  
15 or permit required under K.S.A. 47-1701 *et seq.*, and amendments  
16 thereto, shall be accompanied by the fee prescribed by the commissioner  
17 under this section. Such fees shall be as follows:

18 (1) Except as provided in ~~paragraph~~ *paragraphs (5) and (6)*, for a  
19 license for premises of a person licensed under public law 91-579 (7  
20 U.S.C. § 2131 et seq.), an amount not to exceed ~~\$150~~ ~~\$225~~ **\$300**.

21 (2) Except as provided in paragraph (5), for a license for any other  
22 premises, an amount not to exceed ~~\$300~~ ~~\$450~~ **\$600**.

23 (3) For a temporary closing permit, an amount not to exceed ~~\$75~~  
24 ~~\$113~~ **\$150**.

25 (4) For an out-of-state distributor permit, an amount not to exceed  
26 ~~\$500~~ ~~\$750~~ **\$1,000**.

27 (5) For a hobby breeder license or a kennel operator license an  
28 amount not to exceed ~~\$75~~ ~~\$113~~ **\$150**.

29 (6) *For a pet shop premises license, an amount not to exceed \$450.*

30 (7) A late fee of ~~\$50~~ ~~\$75~~ **\$100** shall be assessed to any person whose  
31 permit or license renewal is ~~more than 45 days~~ late.

32 (b) The commissioner shall determine annually the amount necessary  
33 to carry out and enforce K.S.A. 47-1701 *et seq.*, and amendments thereto,  
34 for the next ensuing fiscal year and shall fix by rules and regulations the  
35 license and permit fees for such year at the amount necessary for that  
36 purpose, subject to the limitations of this section, **except that the com-**  
37 **missioner shall not fix such license and permit fees in an amount**  
38 **which results in an increase in receipts or revenue from the pre-**  
39 **vious fiscal year which exceeds \$80,000.** In fixing such fees, the com-  
40 missioner ~~may~~ **shall** establish categories of licenses and permits, based  
41 upon the type of license or permit, size of the licensed or permitted  
42 business or activity and the premises where such business or activity is  
43 conducted, and ~~may~~ **shall** establish ~~different~~ fees for each such category.

1 The fees in effect immediately prior to the effective date of this act shall  
2 continue in effect until different fees are fixed by the commissioner as  
3 provided by this subsection.

4 (c) If a licensee, permittee or applicant for a license or permit re-  
5 quests an inspection of the premises of such licensee, permittee or ap-  
6 plicant, the commissioner shall assess the costs of such inspection, as  
7 established by rules and regulations of the commissioner, to such licensee,  
8 permittee or applicant.

9 (d) No fee or assessment required pursuant to this section shall be  
10 refundable.

11 (e) The commissioner shall remit all moneys received by or for the  
12 commissioner under this section to the state treasurer in accordance with  
13 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
14 of each such remittance, the state treasurer shall deposit the entire  
15 amount in the state treasury to the credit of the animal dealers fee fund,  
16 which is hereby created in the state treasury. Moneys in the animal deal-  
17 ers fee fund may be expended only to administer and enforce K.S.A. 47-  
18 1701 *et seq.*, and amendments thereto. All expenditures from the animal  
19 dealers fee fund shall be made in accordance with appropriation acts upon  
20 warrants of the director of accounts and reports issued pursuant to vouch-  
21 ers approved by the Kansas livestock commissioner or the commissioner's  
22 designee.

23 (f) Premises required to be licensed under the Kansas pet animal act  
24 shall ~~not be required to pay for more than one license. If more than one~~  
25 ~~operation is~~ pay the required fee for each operation ongoing at the prem-  
26 ises, each operation shall comply with the applicable statutes and rules  
27 and regulations pertaining to such operation.

28 (g) Except as *otherwise* provided ~~further~~, when a premises required  
29 to be licensed or permitted under the Kansas pet animal act applies for  
30 an initial license or permit, the commissioner shall prorate to the nearest  
31 whole month the license or permit fee established in subsection (a). The  
32 commissioner shall have discretion to determine whether the application  
33 is an initial application or an application for a premises which has been  
34 doing business but is not licensed or permitted. If the commissioner de-  
35 termines the premises has been doing business without a license or per-  
36 mit, the commissioner is not required to prorate the fee.

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

39 **[New Sec. 4. No public moneys shall be expended for any of-**  
40 **ficer or employee of the Kansas animal health department for pay-**  
41 **ment or reimbursement of any travel and subsistence allowance,**  
42 **mileage allowance or any other related expense allowance for such**  
43 **officer or employee to attend any meeting other than a meeting**

1 **directly related to the administration of the provisions of K.S.A.**  
2 **47-1701 *et seq.*, and amendments thereto, and regulatory activities**  
3 **thereunder. The provisions of this section shall be part of and sup-**  
4 **plemental to the provisions of K.S.A. 47-1701 *et seq.*, and amend-**  
5 **ments thereto.]**

6     Sec. ~~4~~ **[5.]** K.S.A. 47-1701 and 47-1712 and K.S.A. 2004 Supp. 47-  
7 1721 are hereby repealed.

8     Sec. ~~5~~ **[6.]** This act shall take effect and be in force from and after  
9 its publication in the statute book.