

SENATE BILL No. 266

AN ACT concerning animals; relating to the pet animal act; amending K.S.A. 47-1707 and 47-1709 and K.S.A. 2004 Supp. 47-1721 and repealing the existing sections.

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

Section 1. K.S.A. 2004 Supp. 47-1721 is hereby amended to read as follows: 47-1721. (a) Each application for issuance or renewal of a license or permit required under K.S.A. 47-1701 *et seq.*, and amendments thereto, shall be accompanied by the fee prescribed by the commissioner under this section. Such fees shall be as follows:

(1) Except as provided in paragraph (5) *or* (6), for a license for premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 *et seq.*), an amount not to exceed ~~\$150~~; \$200;

(2) Except as provided in paragraph (5) *or* (6), for a license for any other premises, an amount not to exceed ~~\$300~~; \$405;

(3) for a temporary closing permit, an amount not to exceed ~~\$75~~; \$95;

(4) for an out-of-state distributor permit, an amount not to exceed ~~\$500~~; \$675;

(5) for a hobby breeder license or a kennel operator license an amount not to exceed ~~\$75~~; \$95;

(6) *for a license for an animal shelter or a pound, an amount not to exceed \$300; and*

~~(6)~~ (7) a late fee of ~~\$50~~ \$70 shall be assessed to any person whose permit or license renewal is more than 45 days' late.

(b) The commissioner shall determine annually the amount necessary to carry out and enforce K.S.A. 47-1701 *et seq.*, and amendments thereto, for the next ensuing fiscal year and shall fix by rules and regulations the license and permit fees for such year at the amount necessary for that purpose, subject to the limitations of this section. In fixing such fees, the commissioner may establish categories of licenses and permits, based upon the type of license or permit, size of the licensed or permitted business or activity and the premises where such business or activity is conducted, and may establish different fees for each such category. The fees in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the commissioner as provided by this subsection.

(c) If a licensee, permittee or applicant for a license or permit requests an inspection of the premises of such licensee, permittee or applicant, the commissioner shall assess the costs of such inspection, as established by rules and regulations of the commissioner, to such licensee, permittee or applicant.

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

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

(f) Premises required to be licensed under the Kansas pet animal act shall not be required to pay for more than one license. If more than one operation is ongoing at the premises, each operation shall comply with the applicable statutes and rules and regulations pertaining to such operation.

(g) Except as provided further, when a premises required to be licensed or permitted under the Kansas pet animal act applies for an initial license or permit, the commissioner shall prorate to the nearest whole month the license or permit fee established in subsection (a). The commissioner shall have discretion to determine whether the application is an initial application or an application for a premises which has been doing business but is not licensed or permitted. If the commissioner determines the premises has been doing business without a license or permit, the commissioner is not required to prorate the fee.

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

Sec. 2. K.S.A. 47-1707 is hereby amended to read as follows: 47-1707. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the commissioner, upon a finding that a person has violated or failed to comply with any provision of the Kansas pet animal act or any rule and regulation adopted hereunder, may impose on such person a civil fine not exceeding \$1,000 for each violation *or requirement to attend an educational course regarding animals and their care and treatment. If the commissioner imposes the educational course, such person may choose either the fine or the educational course. If such person chooses the fine, the commissioner shall establish the amount pursuant to the fine provisions of this section. The educational course shall be administered by the commissioner in consultation with Kansas state university college of veterinary medicine.*

(b) Any imposition of a civil fine pursuant to this section shall be only upon notice and a hearing conducted in accordance with the Kansas administrative procedure act and shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(c) Whenever the commissioner has reasonable grounds to believe that a person or premises required to be licensed or permitted under the Kansas pet animal act has failed to comply with or has violated any provision of the Kansas pet animal act or any rule and regulation adopted hereunder and that the health, safety or welfare of animals in such person's possession, custody or care is endangered thereby, the commissioner shall seize and impound such animals using emergency adjudicative proceedings in accordance with the Kansas administrative procedure act. Except as provided by K.S.A. 21-4311, and amendments thereto, such animals may be returned to the person owning them if there is satisfactory evidence that the animals will receive adequate care by that person or such animals may be sold, placed or euthanized, at the discretion of the commissioner. Costs of care and services for such animals while seized and impounded shall be paid by the person from whom the animals were seized and impounded, if that person is found to be in violation of the Kansas pet animal act or any rules and regulations adopted hereunder. Such funds shall be paid to the commissioner for reimbursement of care and services provided during seizure and impoundment. If such person is not found to be in violation of the Kansas pet animal act or any rules and regulations adopted hereunder, the commissioner shall pay the costs of care and services provided during seizure and impoundment.

Sec. 3. K.S.A. 47-1709 is hereby amended to read as follows: 47-1709. (a) The commissioner or the commissioner's authorized, trained representatives shall make an inspection of the premises for which an application for an original license or permit is made under K.S.A. 47-1701 *et seq.*, and amendments thereto, before issuance of such license or permit. The application for a license shall conclusively be deemed to be the consent of the applicant to the right of entry and inspection of the premises sought to be licensed or permitted by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present. Refusal of such entry and inspection shall be grounds for denial of the license or permit. Notice need not be given to any person prior to inspection.

(b) The commissioner or the commissioner's authorized, trained representatives may make an inspection of each premises for which a license or permit has been issued under K.S.A. 47-1701 *et seq.*, and amendments thereto. If such premises are premises of a person licensed or permitted under public law 91-579 (7 U.S.C. § 2131 *et seq.*), such premises may be inspected at least once each year. Otherwise, the premises may be inspected at least twice each year. The acceptance of a license or permit shall conclusively be deemed to be the consent of the licensee or permittee to the right of entry and inspection of the licensed or permitted premises by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present. Refusal of such entry and inspection shall be grounds for suspension or revocation of the license or permit. Notice need not be given to any person prior to inspection.

(c) The commissioner or the commissioner's authorized, trained rep-

representatives shall make inspections of the premises of a person required to be licensed or permitted under K.S.A. 47-1701 et seq., and amendments thereto, upon a determination by the commissioner that there are reasonable grounds to believe that the person is violating the provisions of K.S.A. 47-1701 et seq., and amendments thereto, or rules and regulations adopted thereunder or that there are grounds for suspension or revocation of such person's license or permit.

(d) Any complaint filed with the commissioner shall be confidential and shall not be released to any person other than employees of the commissioner as necessary to carry out the duties of their employment.

(e) Any person making inspections under this section shall be trained by the commissioner in reasonable standards of animal care.

(f) The commissioner may request a licensed veterinarian to assist in any inspection or investigation made by the commissioner or the commissioner's authorized representative under this section.

(g) Any person acting as the commissioner's authorized representative for purposes of making inspections and conducting investigations under this section who knowingly falsifies the results or findings of any inspection or investigation or who intentionally fails or refuses to make an inspection or conduct an investigation pursuant to this section shall be guilty of a class A nonperson misdemeanor.

(h) No person shall act as the commissioner's authorized representative for the purposes of making inspections and conducting investigations under this section if such person has a beneficial interest in a person required to be licensed or permitted pursuant to K.S.A. 47-1701 et seq., and amendments thereto.

(i) Records of inspections pursuant to this section shall be maintained in the office of the Kansas animal health department. Records of a deficiency or violation shall not be maintained for longer than three years after the deficiency or violation is remedied.

(j) *The commissioner shall, in consultation with Kansas state university college of veterinary medicine: (1) Continue procedures to provide for pet animal training or updated training for authorized trained representatives who inspect premises under the pet animal act and to allow the owners of such facilities licensed or permitted under the pet animal act to attend and participate at the training workshops for the authorized trained representatives; and (2) make available to such owners and other interested persons an inspection handbook describing the duties and responsibilities of such authorized trained representatives.*

Sec. 4. K.S.A. 47-1707 and 47-1709 and K.S.A. 2004 Supp. 47-1721 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*