

Approved April 8, 1992  
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at  
Chairperson

9:10 a.m./~~p.m.~~ on Tuesday, March 31, 1992 in room 423-S of the Capitol.

All members were present except: Representative Rock, Representative D. Lawrence,  
who were excused.

Committee staff present: Raney Gilliland, Legislative Research  
Lynne Holt, Legislative Research  
Jill Wolters, Revisor of Statutes Office  
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Jill Wolters  
Revisor of Statutes Office

Tom Vincent  
Board of Veterinary Examiners  
State of Kansas

William L. Anderson  
Topeka

Discussion was held on **SB 763** - concerning grain sorghum; re. to assessments thereon.

Representative Minor moved to pass favorably SB 763. Representative Mollenkamp seconded. Motion carried.

Chairman Hamm asked for the subcommittee report on **SB 752** - Kansas Animal Dealers Act.

Jill Wolters, Revisor of Statutes Office, explained **SB 752** with amendments. (Attachment 1).

Discussion was held on **SB 752**.

Representative Rezac moved to accept the subcommittee report. Representative Reinhardt seconded. Motion carried.

Representative Reinhardt made a motion to pass SB 752 as amended. Representative Bryant seconded. Motion passed.

Hearings were opened on **HB 3189** - Kansas Veterinary Practice Act.

Tom Vincent, Board of Veterinary Examiners, testified in favor of **HB 3189**. He stated the Board is asking the Kansas Legislature to help activate a needed consumer protection plan to meet the contemporary needs of today. (Attachment 2).

William L. Anderson, Topeka, testified in opposition to **HB 3189**. He stated that as overreaching and expensive as this bill is, it should be shelved permanently. (Attachment 3).

The meeting adjourned at 10:00 a.m.



[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 1992

SENATE BILL No. 752

By Committee on Agriculture

2-26

11 AN ACT concerning animals; amendments to the Kansas animal  
12 dealer ~~dealers~~ act; amending K.S.A. 1991 Supp. 47-1701, 47-  
13 1702, 47-1703, 47-1704, 47-1709, 47-1712, 47-1721, ~~47-1725~~ 47-  
14 1726, 47-1731 and 47-1832 and repealing the existing sections; 47-1706, 47-1707,  
15 also repealing K.S.A. 1991 Supp. ~~47-1719~~ and 47-1722.

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

18 Section 1. K.S.A. 1991 Supp. 47-1701 is hereby amended to read  
19 as follows: 47-1701. As used in the Kansas animal dealer act, unless  
20 the context otherwise requires:

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

25 (b) "Adequate watering" means a supply of clean, fresh, potable  
26 water, supplied in a sanitary manner and either continuously ac-  
27 cessible to each animal or supplied at intervals suitable for the animal  
28 species, not to exceed intervals of 12 hours.

29 (c) "Ambient temperature" means the temperature surrounding  
30 the animal.

31 (d) (1) "Animal" means any live dog, cat, rabbit, rodent, non-  
32 human primate, bird or other warm-blooded vertebrate or any fish,  
33 snake or other cold-blooded vertebrate.

34 (2) Animal does not include horses, cattle, sheep, goats, swine  
35 or domestic fowl.

36 (e) "Animal dealer ~~broker~~ facility operator" means any person  
37 who operates ~~an~~ animal dealer ~~broker~~ facility operator premises.

38 (f) ~~(1)~~ (1) "Animal dealer ~~broker~~ facility operator premises"  
39 means any premises where *more than 25* dogs or cats, or both, are  
40 sold, or offered or maintained for sale, ~~primarily~~ *primarily* at whole-  
41 sale for resale to another *or any premises where more than 25 dogs*  
42 *or cats, or both, that are produced and raised on such premises are*  
43 *sold at retail by a person who resides on such premises.*

HS. AG.  
3-31-92  
ATTACHMENT 1

- 1     ~~(2) Animal dealer premises does not include: (A) any pound~~  
 2     ~~or animal shelter; or (B) any premises described in subsection~~  
 3     ~~(m)(1).~~
- 4     (2) *Animal facility operator premises does not include any pound*  
 5     ~~or~~ *animal shelter.* \_\_\_\_\_ or hobby kennel
- 6     (g) "Animal shelter" means a facility which is used or designed  
 7     for use to house or contain any animal and which is owned, operated  
 8     or maintained by a duly incorporated *or unincorporated* humane  
 9     society, animal welfare society, society for the prevention of cruelty  
 10    to animals or other nonprofit corporate organizations devoted to the  
 11    welfare, protection and humane treatment of animals *or any indi-*  
 12    *vidual or organization harboring more than 10 adult dogs or cats,*  
 13    *or both, as a profit or nonprofit no-kill shelter.*
- 14    (h) "Cat" means an animal which is wholly or in part of the  
 15    species *Felis domesticus*.
- 16    (i) "Commissioner" means the livestock ~~(animal health)~~ commis- \_\_\_\_\_ livestock  
 17    sioner appointed by the Kansas animal health board.
- 18    (j) "Dog" means any animal which is wholly or in part of the  
 19    species *Canis familiaris* but does not include any greyhound, as  
 20    defined by K.S.A. 1990 1991 Supp. 74-8802, and amendments  
 21    thereto.
- 22    (k) "Dog warden" means any person employed by, contracted  
 23    with or appointed by the state, or any political subdivision thereof,  
 24    for the purpose of aiding in the enforcement of this law, or any  
 25    other law or ordinance relating to the licensing of animals, control  
 26    of animals or seizure and impoundment of animals, and includes any  
 27    state, county or municipal law enforcement officer, animal control  
 28    officer, constable or other employee, whose duties in whole or in  
 29    part include assignments which involve the seizure or taking into  
 30    custody of any animal.
- 31    (l) "Euthanasia" means the humane destruction of an animal,  
 32    which may be accomplished by any of those methods provided for  
 33    in K.S.A. 47-1718, and amendments thereto.
- 34    ~~(m) (1) "Hobby kennel" means any premises where only~~  
 35    ~~dogs or cats, or both, which are produced and raised on such~~  
 36    ~~premises are sold, or offered or maintained for sale, by a person~~  
 37    ~~who resides on such premises, but only if the total number of~~  
 38    ~~dogs or cats, or both, which are produced and raised on such~~  
 39    ~~premises and are sold during the registration year is fewer than~~  
 40    ~~all or part of six litters of animals or 30 individual animals,~~  
 41    ~~whichever is less, whether such animals are dogs or cats, or~~  
 42    ~~both.~~
- 43    (2) *Hobby kennel does not include: (A) Any pound or an-*

1 imal shelter; or (B) any premises where fewer than all or part  
 2 of three litters of animals, whether dogs or cats, or both, are  
 3 sold during the registration year.

4 (n) "Hobby kennel operator" means any person who op-  
 5 erates a hobby kennel.

6 (o) (m) "Housing facility" means any room, building or area used  
 7 to contain a primary enclosure or enclosures.

8 (p) (l) (n) (l) "Kennel operator" means any person who operates  
 9 an establishment where animals are maintained for boarding or sim-  
 10 ilar purposes for a fee or compensation.

11 (2) Kennel operator does not include an "animal dealer,"  
 12 "pet shop" or "hobby kennel" or any person on whose premises  
 13 there are maintained, fewer than four dogs or cats, or both, in  
 14 any one week.

15 (2) Kennel operator does not include an animal facility operator  
 16 or animal retailer or any person on whose premises there are main-  
 17 tained, fewer than four dogs or cats, or both, in any one week.

18 (q) (o) "Kennel operator premises" means the facility of a kennel  
 19 operator.

20 (p) "No-kill shelter" means a facility of an individual or organ-  
 21 ization, profit or nonprofit, maintaining 10 or more dogs or cats,  
 22 or both, for the purpose of collecting such animals, or offering for  
 23 adoption, animals rescued as unwanted pets.

24 (r) (q) "License year" or "registration year" means the 12-month  
 25 period ending on June 30.

26 (s) (r) "Person" means any individual, association, partnership,  
 27 corporation or other entity.

28 (t) (s) (l) "Pet shop" "Animal retailer premises" means any  
 29 premises where there are sold, or offered or maintained for sale, at  
 30 retail and not for resale to another: (A) Any dogs or cats, or both;  
 31 or (B) any other animals except those which are produced and raised  
 32 on such premises and are sold, or offered or maintained for sale,  
 33 by a person who resides on such premises.

34 (2) Pet shop Animal retailer does not include: (A) Any pound  
 35 or animal shelter; (B) any premises where only fish are sold, or  
 36 offered or maintained for sale; or (C) any animal dealer animal  
 37 facility operator premises; or any premises described in subsec-  
 38 tion (m)(l), or hobby kennel where the only animals, other than  
 39 dogs or cats, which are sold, or offered or maintained for sale, are  
 40 animals which are produced and raised on such premises and are  
 41 sold, or offered or maintained for sale, by a person residing on such  
 42 premises. (u) "Pet shop operator"

43 (t) "Animal retailer" means any person who operates a pet shop

1 an animal retailer premise.

2 (v) (u) "Pound" means a facility:

3 (1) Operated by the state, or any political subdivision thereof,  
4 for the purpose of impounding or harboring any seized stray, home-  
5 less or abandoned animal; or

6 (2) operated for such a purpose under contract with any munic-  
7 ipality or incorporated society for the prevention of cruelty to animals  
8 or by another person under contract with such municipality.

9 (w) (v) "Primary enclosure" means any structure used or de-  
10 signed for use to restrict any animal to a limited amount of space,  
11 such as a room, pen, cage, compartment or hutch.

12 (x) (w) "Research facility" means any place, laboratory or insti-  
13 tution, except an elementary school, secondary school, college or  
14 university, at which any scientific test, experiment or investigation  
15 involving the use of any living animal is carried out, conducted or  
16 attempted.

17 (y) (x) "Sale," "sell" and "sold" include transfers by sale or ex-  
18 change. Maintaining animals for sale is presumed whenever 20 10  
19 or more dogs or cats, or both, are maintained by any person.

20 (z) (y) "Sanitize" means to make physically clean and to remove  
21 and destroy, to a practical minimum, agents injurious to health, at  
22 such intervals as necessary.

23 (z) "Animal breeder" means any person who operates an  
24 animal breeder premises.

25 (aa) "Animal breeder premises" means any premise where  
26 more than three intact female dogs or cats, or both, are main-  
27 tained and offspring are raised, leased, sold, offered or main-  
28 tained for sale.

29 (z) (1) "Hobby kennel" means any premises where ~~more than~~  
30 ~~three reproductively intact female~~ dogs or cats, or both, ~~are main-~~  
31 ~~tained and offspring are raised, leased, sold or offered or maintained~~  
32 ~~for sale by a person who resides on such premises, but only if the~~  
33 ~~total number of dogs or cats, or both, which are produced and~~  
34 ~~raised on such premises and are sold during the registration year~~  
35 ~~are fewer than 26 individual~~ dogs or cats, or both.

36 (2) Hobby kennel does not include any pound or animal shelter.

37 (aa) "Hobby kennel operator" means any person who operates a  
38 hobby kennel.

39 Sec. 2. K.S.A. 1991 Supp. 47-1702 is hereby amended to read  
40 as follows: 47-1702. Except as otherwise provided by K.S.A. 1988  
41 Supp. 47-1722, it shall be unlawful for any person, other than  
42 a person licensed under public law 91-579 (7 U.S.C. & 2131  
43 et seq.), to act as or be an animal dealer unless such person

(bb) "Adequate veterinary care" means: (1) A documented program of disease control and prevention, euthanasia and routine veteri- nary care established and maintained under the supervision of a licensed veterinarian and shall include a documented on site visit to the premises by the veterinarian at least once per year; and (2) diseased, ill or injured animals shall be provided with veterinary care.

only  
which are produced and raised on such premises are

is fewer than all or part of six litters of animals or 30 individual animals, whichever is less, whether such animals are

or any premises where fewer than all or part of three litters of animals, whether dogs or cats, or both, are sold during the registration year

insert (bb) above

1 has obtained from the commissioner an animal dealer license  
2 for each animal dealer premises operated by such person. Ex-  
3 cept as otherwise provided by K.S.A. 1988 Supp. 47-1722, on  
4 and after January 1, 1989, It shall be unlawful for any person  
5 licensed under public law 91-579 (7 U.S.C. & 2131 et seq.) to act  
6 as or be an animal dealer ~~broker facility operator~~ unless such person  
7 has obtained from the commissioner an animal dealer ~~broker facility~~  
8 ~~operator~~ license for each animal dealer ~~broker facility operator~~  
9 premises operated by such person. Application for such license shall  
10 be made in writing on a form provided by the commissioner. The  
11 license period shall be for the license year ending on June 30 fol-  
12 lowing the issuance date.

13 Sec. 3. K.S.A. 1991 Supp. 47-1703 is hereby amended to read  
14 as follows: 47-1703. ~~Except as otherwise provided by K.S.A. 1988~~  
15 ~~Supp. 47-1722,~~ It shall be unlawful for any person to act as or be  
16 a ~~pet shop operator~~ *an animal retailer* unless such person has  
17 obtained from the commissioner a ~~pet shop operator~~ *an animal*  
18 *retailer* license for each ~~pet shop animal retailer premise~~ operated  
19 by such person. Application for each such license shall be made in  
20 writing on a form provided by the commissioner. The license period  
21 shall be for the license year ending on June 30 following the issuance  
22 date.

23 Sec. 4. K.S.A. 1991 Supp. 47-1704 is hereby amended to read  
24 as follows: 47-1704. It shall be unlawful for any *individual, city or*  
25 *county* or the officials thereof to operate a pound or any corporate  
26 entity to operate an animal shelter as a pound, except a licensed  
27 veterinarian, unless a license for such pound or shelter has been  
28 obtained from the commissioner. Application for such license shall  
29 be made on a form provided by the commissioner. The license period  
30 shall be for the license year ending on June 30 following the issuance  
31 date.

32 Sec. 5. K.S.A. 1991 Supp. 47-1709 is hereby amended to read  
33 as follows: 47-1709. (a) The commissioner or the commissioner's au-  
34 thorized, trained representatives shall make an inspection of the  
35 premises for which an application for an original license is made  
36 under K.S.A. 47-1701 et seq., and amendments thereto, before is-  
37 suance of such license. The application for a license shall conclusively  
38 be deemed to be the consent of the applicant to the right of entry  
39 and inspection of the premises sought to be licensed by the com-  
40 missioner or the commissioner's authorized, trained representatives  
41 at reasonable times with the owner or owner's representative present.  
42 Refusal of such entry and inspection shall be grounds for denial of  
43 the license. Notice need not be given to any person prior to

1-5  
The applicant may request that a licensed  
veterinarian be present.

1 inspection.

2 (b) *Except as provided in subsection (j)*, the commissioner or the  
3 commissioner's authorized, trained representatives shall make an in-  
4 spection of each premises for which a license has been issued under  
5 K.S.A. 47-1701 et seq., and amendments thereto. If such premises  
6 are premises of a person licensed under public law 91-579 (7 U.S.C.  
7 & 2131 et seq.), such premises shall be inspected at least once each  
8 year. Otherwise, the premises shall be inspected at least twice each  
9 year. The acceptance of a license shall conclusively be deemed to  
10 be the consent of the licensee to the right of entry and inspection  
11 of the licensed premises by the commissioner or the commissioner's  
12 authorized, trained representatives at reasonable times with the  
13 owner or owner's representative present. Refusal of such entry and  
14 inspection shall be grounds for suspension or revocation of the li-  
15 cense. Notice need not be given to any person prior to inspection.

The licensee may request that a licensed  
veterinarian be present.

16 (c) The commissioner or the commissioner's authorized, trained  
17 representatives shall make inspections of the premises of a person  
18 required to be licensed or registered under K.S.A. 47-1701 et seq.,  
19 and amendments thereto, upon a determination by the commissioner  
20 that there are reasonable grounds to believe that the person is vi-  
21 olating the provisions of K.S.A 47-1701 et seq., and amendments  
22 thereto, or rules and regulations adopted thereunder or that there  
23 are grounds for suspension or revocation of such person's license or  
24 certificate of registration.

25 (d) Any complaint filed with the commissioner shall be confi-  
26 dential and shall not be released to any person other than employees  
27 of the commissioner as necessary to carry out the duties of their  
28 employment.

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

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

34 (g) Any person acting as the commissioner's authorized repre-  
35 sentative for purposes of making inspections and conducting inves-  
36 tigations under this section who knowingly falsifies the results or  
37 findings of any inspection or investigation or who intentionally fails  
38 or refuses to make an inspection or conduct an investigation pursuant  
39 to this section shall be guilty of a class A misdemeanor.

knowingly

40 (h) No person shall act as the commissioner's authorized repre-  
41 sentative for the purposes of making inspections and conducting  
42 investigations under this section if such person has a beneficial in-  
43 terest in a person required to be licensed or registered pursuant to

1 K.S.A. 47-1701 et seq., and amendments thereto.

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

6 (j) *Research facilities which have been certified by the American*  
7 *association for the accreditation of laboratory animal care shall be*  
8 *inspected by the commissioner only upon receipt of a complaint.*

9 Sec. 6. K.S.A. 1991 Supp. 47-1712 is hereby amended to read  
10 as follows: 47-1712. (a) The commissioner is hereby authorized to  
11 adopt rules and regulations for ~~hobby kennels, hobby kennels,~~ ken-  
12 ~~nel operators operator premises,~~ pounds, animal shelters, ~~pet shops~~  
13 ~~animal retailer premises, no-kill shelters~~ and research facilities. Such  
14 rules and regulations shall include, but not be limited to, provisions  
15 relating to: (1) Reasonable treatment of animals in the possession,  
16 custody or care of a licensee or registrant or being transported to  
17 or from licensed or registered premises; (2) a requirement that each  
18 licensee and registrant file with the commissioner evidence that  
19 animals entering or leaving the state are free from any visible symp-  
20 toms of communicable disease; (3) identification of animals handled;  
21 (4) primary enclosures; (5) housing facilities; (6) sanitation; (7) eu-  
22 thanasia; (8) ambient temperatures; (9) feeding; (10) watering; (11)  
23 adequate veterinary medical care; (12) inspections of licensed or  
24 registered premises, investigations of complaints and training of per-  
25 sons conducting such inspections and investigations; and (13) a re-  
26 quirement that each licensee keep and maintain, for inspection by  
27 the commission, such records as necessary to administer and enforce  
28 the provisions of the Kansas animal dealer act.

29 (b) ~~The commissioner shall only adopt as rules and regulations~~  
30 ~~for animal dealers and breeders, animal brokers, animal dealer~~  
31 ~~breeder premises and animal broker facility operators and animal~~  
32 ~~facility operators premises,~~ the rules and regulations promulgated  
33 by the secretary of the United States department of agriculture,  
34 cited at 9 C.F.R. ~~[2.40, 2.50, 2.75 and]~~ 3.1 through 3.12, pursuant  
35 to the provisions of the United States public law 91-579 (7 U.S.C.  
36 & 2131 et seq.), commonly known as the animal welfare act and a  
37 requirement that each animal dealer ~~breeder or animal broker~~  
38 ~~facility operator~~ file with the commissioner evidence that animals  
39 entering or leaving the state are free from any visible symptoms of  
40 communicable disease.

41 Sec. 7. K.S.A. 1991 Supp. 47-1721 is hereby amended to read  
42 as follows: 47-1721. (a) Each application for issuance or renewal of  
43 a license or certificate of registration required under K.S.A. 47-1701

(k) In the event a complaint received by the  
commissioner appears to constitute a violation  
of K.S.A. 21-4310, and amendments thereto, the  
commissioner shall notify the appropriate law  
enforcement agency of the substance of the  
complaint in a timely manner.

(for your information, KSA 21-4310 is cruelty  
to animals, B misdemeanor, 6 months county, up to  
\$1000 fine)

Except as provided in subsection (c),

(c) The commissioner shall have the right to  
inspect the records required by the United  
States department of agriculture and shall  
accept as identification standards those  
accepted by such department of agriculture.

1 *et seq.* and amendments thereto shall be accompanied by the fee  
 2 prescribed by the commissioner under this section. Such fees shall  
 3 be as follows:

4 (1) For a license for premises of a person licensed under public  
 5 law 91-579 (7 U.S.C. & 2131 *et seq.*), an amount not to exceed  
 6 ~~\$150 \$775 \$150.~~

7 (2) For a license for any other premises, an amount not to exceed  
 8 ~~\$300 \$875 \$250~~ \$ 300

9 (3) For a certificate of registration, an amount not to exceed \$75.

10 (b) The commissioner shall determine annually the amount nec-  
 11 essary to carry out and enforce K.S.A. 47-1701 *et seq.* and amend-  
 12 ments thereto for the next ensuing fiscal year and shall fix by rules  
 13 and regulations the license and registration fees for such year at the  
 14 amount necessary for that purpose, subject to the limitations of this  
 15 section. In fixing such fees, the commissioner may ~~shall~~ establish may  
 16 categories of licenses and registrations, based upon the type of license  
 17 or registration, size of the licensed or registered business or activity  
 18 and the premises where such business or activity is conducted, and  
 19 may establish different fees for each such category. The fees in effect  
 20 immediately prior to the effective date of this act shall continue in  
 21 effect until different fees are fixed by the commissioner as provided  
 22 by this subsection.

23 (c) If a licensee, registrant or applicant for a license or registration  
 24 requests an inspection of the premises of such licensee, registrant  
 25 or applicant, the commissioner shall assess the costs of such in-  
 26 spection, as established by rules and regulations of the commissioner,  
 27 to such licensee, registrant or applicant.

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

30 (e) The commissioner shall remit all moneys received by or for  
 31 the commissioner under this section to the state treasurer at least  
 32 monthly. Upon receipt of each such remittance, the state treasurer  
 33 shall deposit the entire amount in the state treasury and shall credit  
 34 it to the animal dealers fee fund, which is hereby created in the  
 35 state treasury. Moneys in the animal dealers fee fund may be ex-  
 36 pended only to administer and enforce K.S.A. 47-1701 *et seq.*, and  
 37 amendments thereto. All expenditures from the animal dealers fee  
 38 fund shall be made in accordance with appropriation acts upon war-  
 39 rants of the director of accounts and reports issued pursuant to  
 40 vouchers approved by the Kansas ~~livestock~~ animal health commis-  
 41 sioner or the commissioner's designee.

42 (f) Any renewal for a license received after August 31 shall be  
 43 considered an application for an original license and the premises

1 shall be subject to inspection pursuant to K.S.A. 47-1709, and  
2 amendments thereto.

3 (g) Premises required to be licensed under the Kansas animal  
4 dealers act shall obtain a license for the business such premises is  
5 primarily engaged in and shall not be required to obtain more than  
6 one license.

7 (~~f~~) (~~g~~) (h) This section shall be part of and supplemental to K.S.A.  
8 47-1701 et seq. and amendments thereto.

9 ~~Sec. 8. K.S.A. 1001 Supp. 47-1725 is hereby amended to read~~  
10 as follows: 47-1725. (a) There is hereby created the Kansas companion  
11 animal advisory board, consisting of ~~nine~~ [11] members. Members  
12 shall be appointed by the governor as follows:

13 (1) One member shall be a representative of the Kansas feder-  
14 ation of humane societies;

15 (2) one member shall be an employee of a research facility li-  
16 censed under K.S.A. ~~1990~~ 1991 Supp. 47-1720, and amendments  
17 thereto;

18 (3) one member shall be a companion animal breeder, actively  
19 engaged in the breeding of companion animals, licensed under the  
20 Kansas animal dealer act and shall be selected from a list of three  
21 names presented to the governor by the American professional pet  
22 distributors, inc.;

23 (4) one member shall be a companion animal broker, actively  
24 engaged in buying and selling companion animals, licensed under  
25 the Kansas animal dealer act and shall be selected from a list of  
26 three names presented to the governor by the American professional  
27 pet distributors, inc.;

28 (5) one member shall be a ~~pet shop operator~~ *an animal retailer*,  
29 licensed under the Kansas animal dealer act and shall be selected  
30 from a list of three names presented to the governor by the pet  
31 industry joint advisory council;

32 (6) one member shall be a licensed veterinarian and shall be  
33 selected from a list of three names presented to the governor by  
34 the Kansas veterinary medical association;

35 (7) one member shall be a private citizen with no link to the  
36 industry;

37 (8) one member shall be a companion animal breeder, actively  
38 engaged in the breeding of companion animals, or a companion  
39 animal broker, actively engaged in buying and selling companion  
40 animals, licensed under the Kansas animal dealer act and shall not  
41 be affiliated with an organized companion animal association; and

42 (9) one member shall be a ~~hobby~~ *hobby* kennel operator, reg-  
43 istered under the Kansas animal dealer act-[:]

1-10

1 ~~[(10) one member shall be a hobby kennel operator, licensed~~  
2 ~~under the Kansas animal dealers act and shall be selected from a~~  
3 ~~list of three names presented to the governor by the cat fancier's~~  
4 ~~association; and~~

5 ~~[(11) one member shall be a hobby kennel operator, licensed~~  
6 ~~under the Kansas animal dealers act and shall be selected from a~~  
7 ~~list of three names presented to the governor by the American kennel~~  
8 ~~club.]~~

9 (b) Of the members first appointed to the board, the governor  
10 shall designate three whose terms shall expire June 30, 1992; three  
11 whose terms shall expire June 30, 1993; and three whose terms shall  
12 expire June 30, 1994. After the expiration of such terms, each mem-  
13 ber shall be appointed for a term of three years and until a successor  
14 is appointed and qualified.

15 (c) A vacancy on the board of a member shall be filled for the  
16 unexpired term by appointment by the governor.

17 (d) The board shall meet at least once every calendar quarter  
18 regularly or at such other times as the chairperson or a majority of  
19 the board members determine. A majority of the members shall  
20 constitute a quorum for conducting board business.

21 (e) The members of the board shall annually elect a chairperson.

22 (f) The board shall have the following duties, authorities and  
23 powers:

24 (1) To advise the Kansas ~~livestock~~ *animal health* commissioner  
25 on hiring a director to implement the Kansas animal dealer act;

26 (2) to review the status of the Kansas animal dealer act;

27 (3) to make recommendations on changes to the Kansas animal  
28 dealer act; and

29 (4) to make recommendations concerning the rules and regula-  
30 tions for the Kansas animal dealer act.]

renumber sections accordingly

31 Sec. 9. K.S.A. 1991 Supp. 47-1726 is hereby amended to read  
32 as follows: 47-1726. K.S.A. 47-1701 through ~~47-1722~~ 47-1718 and  
33 K.S.A. 1991 Supp. ~~47-1723~~ 47-1719 through 47-1727, and amend-  
34 ments thereto, shall be known and may be cited as the Kansas animal  
35 dealers act. This act shall license, register and regulate the conditions  
36 of certain premises and facilities within the state of Kansas where  
37 animals are maintained, sold or offered or maintained for sale.

38 Sec. 10. K.S.A. 1991 Supp. 47-1731 is hereby amended to read  
39 as follows: 47-1731. (a) No dog or cat may be released for adoption  
40 from any pound or animal shelter, as defined by K.S.A. 47-1701,  
41 and amendments thereto, or from any duly incorporated or unin-  
42 corporated humane society, unless:

43 (1) Such dog or cat has been first surgically spayed or neutered;

1 or

2 (2) the adopting party signs an agreement to have the dog or cat  
3 spayed or neutered and deposits with the pound or animal shelter  
4 funds sufficient to ensure that the dog or cat will be sterilized. Any  
5 funds deposited pursuant to such an agreement shall be refunded  
6 to the adopting party upon presentation of a written statement signed  
7 by a licensed veterinarian that the adopted dog or cat has been  
8 spayed or neutered.

9 (b) No person shall spay or neuter any dog or cat for or on behalf  
10 of a pound, animal shelter or humane society unless such person is  
11 a licensed veterinarian *or a student currently enrolled in the college*  
12 *of veterinary medicine, Kansas state university, who has completed*  
13 *at least two years of study in the veterinary medical curriculum and*  
14 *is participating in a spay or neuter program as part of the curriculum*  
15 *under the direct supervision of a licensed veterinarian who is a*  
16 *faculty member at the Kansas state university veterinary medical*  
17 *center.* ~~No pound, animal shelter or humane society shall designate~~

18 the veterinarian which a person must use, or a list from which a  
19 person must select a veterinarian, to spay or neuter a dog or cat  
20 adopted by such person from such pound, shelter or society, nor  
21 shall such pound, shelter or society in any way penalize a person  
22 for such person's selection of a veterinarian to spay or neuter a dog  
23 or cat adopted from such pound, shelter or society.

24 (c) Nothing in this section shall be construed to require sterili-  
25 zation of a dog or cat which is being held by a pound or animal  
26 shelter and which may be claimed by its rightful owner.

27 ~~New Sec. 11. It shall be unlawful for any person to act as~~  
28 ~~or be an animal breeder unless such person has obtained an~~  
29 ~~animal breeder license for each animal breeder premise op-~~  
30 ~~erated by such person. Application for each such license shall~~  
31 ~~be made in writing on a form provided by the commissioner.~~  
32 ~~The license period shall be for the license year ending on June~~  
33 ~~30 following the issuance date.~~

34 Sec. ~~12~~ 11. K.S.A. 1991 Supp. 47-1832 is hereby amended to  
35 read as follows: 47-1832. The livestock ~~[animal health] commissioner~~  
36 is hereby authorized to establish rules and regulations on the *def-*  
37 *inition*, sale and importation into Kansas of exotic animals. As used  
38 in this section "exotic animal" means the definition given by  
39 rules and regulations in 9 C.F.R. 1.1, pursuant to 7 U.S.C.  
40 2131 *et seq.*

41 ~~New Sec. 12. (a) Any person required to be licensed or registered~~  
42 ~~under the Kansas animal dealers act shall remit to the commissioner,~~  
43 ~~on a quarterly basis, a housed animal registration fee in an amount~~

The spay or neuter program shall only be conducted at the surgery clinic at the Kansas state university medical center in Manhattan, Kansas.

livestock

1-12

1 not to exceed \$.10 for each dog or cat acquired, produced or main-  
 2 tained on such person's licensed or registered premises during any  
 3 part of the license or registration year. No animal shall be charged  
 4 such registration fee more than once per license or registration year.  
 5 The commissioner shall remit such funds to the state treasurer and  
 6 such funds shall be credited to the animal dealers fee fund, pursuant  
 7 to K.S.A. 1991 Supp. 47-1721, and amendments thereto. Reports  
 8 and registration fees shall be remitted to the commission within 30  
 9 days of the end of each quarter. If the amount owed by the licensee  
 10 pursuant to this section is less than \$10, the licensee shall remit \$10  
 11 along with the registration report. Registration reports shall be filed  
 12 on a form prescribed by the commissioner.]

insert attached sections

13 Sec. 13. K.S.A. 1991 Supp. 47-1701, 47-1702, 47-1703, 47-1704,  
 14 47-1709, 47-1712, ~~47-1719~~, 47-1721, 47-1722, ~~47-1725~~ 47-1726, 47-  
 15 1731 and 47-1832 are hereby repealed.

47-1706, 47-1707,

16 Sec. 14. This act shall take effect and be in force from and after  
 17 its publication in the statute book.

**47-1706. Refusal to issue or renew or suspension or revocation of license or registration; grounds; judicial review; seizure and disposition of animals, when.** (a) The commissioner may refuse to issue or renew or may suspend or revoke any license or certificate of registration required under K.S.A. 47-1701 *et seq.* and amendments thereto for any one or more of the following reasons:

(1) Material misstatement in the application for the original license or certificate of registration, or in the application for any renewal of a license or certificate of registration;

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

(3) permitting any license or certificate of registration issued hereunder to be used by an unlicensed or unregistered person or transferred to unlicensed or unregistered premises;

(4) the conviction of any crime, an essential element of which is misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals;

(5) substantial misrepresentation,

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

(7) fraudulent bill of sale;

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

(9) the feeding, watering, sanitizing and housing practices at the licensee's or registrant's premises are not consistent with the Kansas animal dealer act or the rules and regulations adopted hereunder.

(b) Any refusal to issue or renew a license or certificate of registration, and any suspension or revocation of a license or certificate of registration, under this section shall be in accordance with the provisions of 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 denies, suspends or revokes a license or certificate of registration under this section, the commis-

Euthanasia may be authorized by the commissioner if the animal is diseased or disabled beyond recovery for any useful purpose. Once seized or impounded, the licensee or registrant may have a licensed veterinarian present at the initial veterinarian inspection to provide veterinary care or to euthanize such animal.

sioner or the commissioner's authorized, trained representatives shall seize and impound any animals in the possession, custody or care of the person whose license or certificate of registration is denied, suspended or revoked if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. 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's license or certificate of registration is denied, suspended or revoked. Such funds shall be paid to the commissioner for reimbursement of care and services provided during seizure and impoundment. If such person's license or certificate of registration is not denied, suspended or revoked, the commissioner shall pay the costs of care and services provided during seizure and impoundment.

History: L. 1972, ch. 201, § 6; L. 1988, ch. 189, § 7; L. 1991, ch. 152, § 29; July 1.

Sec. 12. KSA 1991 supp is hereby amended as follows:

**47-1707. Administrative civil fine for violations of act; judicial review; seizure and disposition of animals, when.** (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 animal dealer act or any rule and regulation adopted hereunder, may impose on such person a civil fine not exceeding \$1,000 for each violation.

(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 registered under the Kansas animal dealer act has failed to comply with or has violated any provision of the Kansas animal dealer 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 animal dealer 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 animal dealer act or any rules and regulations adopted hereunder, the commissioner shall pay the costs of care and services provided during seizure and impoundment.~~

Euthanasia may be authorized by the commissioner if the animal is diseased or disabled beyond recovery for any useful purpose. Once seized or impounded, the licensee or registrant may have a licensed veterinarian present at the initial veterinarian inspection to provide veterinary care or to euthanize such animal. ,

FROM:



## Board of Veterinary Examiners

TO: House of Representatives, Agriculture Committee.

My name is Tom Vincent. I'm a veterinarian, and proud of it. I practice in the state of Kansas, and I'm proud of that too. I am a graduate of Kansas State University - 1968. I was a member of the Kansas Board of Veterinary Examiners from 1980 to 1988, also served as Vice-President and President of the Board. From 1988 to present, I've been an employee of the state of Kansas, my job title being Executive Director, Kansas Board of Veterinary Examiners. When I came onto the Board in 1980 and attended the first meeting, two of the major concerns at that time were - "Is there a fair way to handle license applicants from a foreign veterinary school?" and "Can we come up with some other way than taking this practitioner's license for such a small infraction?" These questions still exist today and the advice from the Attorney General's office remains the same, which is "Send a letter of reprimand to the veterinarian and a letter of dismissal to the client. Or suspend the veterinarian's license."

The Board of Veterinary Examiners is a statutory entity representing the peoples of the state of Kansas (the consumer). Upon accepting their position on the board, each of the board members took and signed the Oath of Office for the state of Kansas. Upon taking this Oath, each member was charged with the obligation to protect the public health, safety and welfare. When acting as a board, their legal decisions are the legal decisions of the state of Kansas, using the Practice Act as a guide and the Attorney Generals office as counsel.

It is the feeling of this board that sufficient study has been done to produce an efficient, fair and effective law to benefit the public as well as to enhance the veterinary profession in the state of Kansas. Research on this decision has been under consideration for the last eleven (11) years, and the composite experience of this board in the regulation of veterinary medicine encompasses thirty-eight (38) years. What we are asking of the Kansas Legislature, is your assistance in helping us activate a needed consumer protection plan to meet the contemporary needs of today.

When considering the changes, it soon became apparent that the only practical approach was a TOTAL OVERHAUL. The board members contacted other State Examining Boards, had joint entire board meetings and worked very closely with veterinary associations from coast to coast. These people were all not only cooperative, but enthusiastic and very helpful in our acquiring of the information needed to put this document together. Every piece of information that we

As. Ag.  
3-31-92  
ATTACHMENT 2

used came from working documents proven and effective in the states where they are applied and all concerned feel that fairness to the public and the profession has been considered.

The Kansas Veterinary Medical Association, who nominates the candidates from their membership for the Governor's selection for the Board of Veterinary Examiners, was very helpful in publishing in the JUNE 1991 KANSAS VETERINARIAN a request from our board to all members for assistance in updating and fine-tuning the practice act. This was one of many requests in the last two years, and like all others received no response. All the while the board was busy giving comprehensive consideration to their assigned task to their best of their abilities.

While hosting a joint meeting with the Missouri Board of Examiners who was rewriting their practice act, we were introduced to the consultant assisting their Attorney General's office. Our board members were familiar with this fellow, but had not considered his services until that day. Enclosed is a short synopsis on James F. Wilson, DVM, JD, who was contracted as our consultant, and we feel did one super job.

This is an explanation for the reasoning behind the proposed changes to the Veterinary Practice Act. Kansas has always been a national leader in Veterinary Law and to maintain that reputation we feel the following changes are now a necessity.

The Board of Veterinary Examiners has spent immeasurable hours outlining procedures and ideas to make the Kansas Practice Act a streamlined functional document, with fairness to all, limiting restraint of trade, and making the dealings with license applicants and holders more understandable. The main emphasis is to define a minimum standard of practice and establish a doctor-client-patient relationship for every case.

Two new board members are needed badly because as discovered in the past if one member is ill and another has an emergency the remainder can not carry on normal business as defined by the law. Also the investigation and hearing process is not practical with the present 5 members. By adding 2 members all functions would be much smoother.

Add 'register and' to the present "inspect any hospital" and add 'other place utilized by' to include mobile units under powers of the board. Add limit, condition, fine, reprimand and restrict to the license provisions. This would help establish minimum standards of practice to be outlined in rules and regulations. The present suspend or dismiss leaves the repeat offenders of smaller yet troublesome infractions knowing they will receive a letter of reprimand for their files. A fine could be increased if such infractions are repeated.

The license renewal fee shall be \$50 to compensate for the increased administrative costs, investigations, hearings and inspections.

3

The testing procedure shall be a jurisprudence examination administered by the State Board for a more universal understanding of the law. The scientific examination will be left to the National Board Exam and Clinical Competency Test.

Foreign graduates will be licensed as they are in 44 other states, based on the Educational Commission on Foreign Veterinary Graduates (ECFVG) certificate issued by the American Veterinary Medical Association (AVMA).

We will have no need for reciprocal licensure because the licensing technique would be by endorsement. With this in place we would no longer need the Institutional license either.

The grounds for revocation would be more encompassing than the present suspend and revoke. It would include fines for lesser infractions. Here also the minimum standard of practice is to be defined. Fines have more impact on an individual than a letter of reprimand or a license suspension that is stayed so they can maintain their business.

The definition of the doctor-client-patient relationship is a very important part of defining the practice of veterinary medicine as is the content and ownership of medical records. The model drug code will be introduced and utilized. None of these have been defined or addressed in the past.

A Good Samaritan clause is added for both veterinary and human emergency situations.

The premise permit is to insure the public that the minimum standard of practice is being maintained through out the state. This is an area of concern for some of the practicing veterinarians of the state. The reasoning for this is to assure the public of quality animal care in the State of Kansas, not to harass the practitioners.

The functioning of the citation and fine authority used in other states has proven to be very cost effective and the result is much more attention paid to law and procedure. This particular authority also allows the board to take action against unlicensed persons breaking the veterinary law in Kansas.

The board feels it needs, the requiring of diagnostic tests, if it is proven necessary, in the impairment area. It has been added to the impairment area which is otherwise untouched.

Our goal is to promote the public health, safety and welfare by today's definitions and to establish minimum standards of practice with a doctor-client-patient relationship in every case. The Board of Veterinary Examiners feels the proposed amendments are necessary for them to help the State of Kansas obtain this goal. Thank You.

# From the Kansas Board of Veterinary Examiners

by Tom Vincent, Executive Director

IF YOU WANT TRULY TO UNDERSTAND SOMETHING, TRY TO CHANGE IT.

- Kurt Lewin

This statement, borrowed from the latest Readers Digest's "Quotable Quotes", may urge you to identify those areas of the Kansas Practice Act that need changing. The Board of Examiners recognizes that there are many areas in the law that could use additions, deletions -- but certainly "fine-tuning". A copy of the existing statutes and regulations is provided for exact wording on page 9 of this publication.

Some of the concerns already raised include:

- \* Should "unprofessional conduct" be defined and outlined in the act itself?
- \* Should "standards of practice" be defined and outlined?
- \* Should we attempt to define our own code of ethics? Can our ethical guidelines be legislated?
- \* Should we instigate the ECFVG program? If not, how do we process the foreign graduate?
- \* How do we reverse someone from a "retired" status?
- \* What areas of knowledge and media should be accepted as "continuing education"?
- \* What constitutes "supervision"?
- \* Should the board develop regulations for Registered Technicians? If so, what is applicable?
- \* What constitutes "gross malpractice"?
- \* Can we define "negligence"? If so, how?
- \* Should "discipline" be otherwise defined? Would the Board of Examiners have the ability to assess fines effectively? Would the KVMA publish censures?
- \* Should the law include criteria defining what constitutes a "veterinary record"?

Finally, the Board of Examiners needs 2 more members in order for business to be conducted effectively. Your assistance in helping us identify individuals who would serve Kansas well in this capacity is much appreciated.

If you have any ideas regarding the Kansas Practice Act or related issues, please forward them in writing to Dr. Tom Vincent, North Star Route, Lakin, Ks. 67860.

Without your input, decisions will be made by others. Keep in mind the purpose of the Kansas Practice Act -- and keep in touch.

## Sales Tax Sense

KVMA attorneys Greg Dennis and Ben Neill are currently working with the Kansas Department of Revenue to secure a moratorium on the payment of sales taxes due from previous periods. If a temporary immunity is obtained, then veterinarians would be able to register as retailers without risk of penalty.

Generally, veterinarians may be able to discern those items eligible for the payment of sales tax based upon a "rule of thumb": If the product may be purchased elsewhere and over the counter, then the veterinarian should collect the applicable state and local sales tax.

Unknown, as yet, is the Kansas Department of Revenue's policy regarding the assessment of sales tax upon veterinary prescription drug and "ingredient component" products which are related to the provision of medical services through diagnosis and treatment.

The unregistered veterinarian's sales tax exposure consists of the difference between the amount at which he or she purchased the product and that at which he or she purchased the product (assuming he or she paid a sales tax to his or her supplier) and that at which he or she sold it -- the markup.

For further information, call Gregory Dennis at 913-491-5500 or Ben Neill at 913-649-4500.



State of Missouri

Department of Economic Development  
Division of Professional Registration

**Missouri Veterinary Medical Board**  
P.O. Box 633  
Jefferson City, Missouri 65102  
Telephone 314/751-2334

**John Ashcroft, Governor**

Carl M. Koupal, Jr., Director  
Tom Duncan, Director

Paul L. Spencer, D.V.M.  
Executive Director

To: Dr. Robert E Wingert  
Member, Kansas Veterinary Medical Board

From: Dr. Tom Barrows  
Chairman, Missouri Veterinary Medical Board

In response to your question regarding our reasons to rewrite the Missouri Veterinary Medical Practice Act, I will try to summarize very briefly with the following points.

1. The original practice act was enacted in 1905 with amendments in 1974, 1976, and 1981.
2. Types and numbers of complaints have been changing rapidly as well as a change in attitude in the court system.
3. Federal trade Commission lawsuits against several states forcing changes undesirable to the profession and costing states as much as 1/2 million dollars.
4. Special interest groups outside of the profession introducing legislation taking the regulation of veterinary medicine to other state agencies who lack the qualifications to regulate veterinarians.
5. Vague sections in the present act which create a situation in which the lawyers and administrative judges were interpreting definitions such as the minimum standards of veterinary practice, surgery, ethics, etc. This caused lengthy litigation costing the state and veterinarians thousands of dollars in legal fees.
6. The need to better define the role of the veterinarians to the consumer to avoid misunderstanding.
7. Changing Federal laws regarding the testing and licensing of professional candidates requiring change in state law to comply.

If you have more questions please feel free to call us.



JAMES F. WILSON, DVM, JD

6

2111 YARDLEY-MORRISVILLE ROAD  
YARDLEY, PA 19067  
215-321-9488

CONSULTANT  
VETERINARY LAW AND PRACTICE MANAGEMENT

November 4, 1991

Tom Vincent, DVM  
Executive Director  
Kansas Board of Vet. Med.

Dear Tom:

A short synopsis of the special qualifications I possess enabling me to help you with this project are as follows:

I am one of the very few veterinarians with 16 years of private veterinary practice experience who also has a law degree. While practicing in California from 1970-1986 I served on three California VMA and 2 California State Board committees that worked on revisions for the California veterinary practice act.

During 1987-88 I spent 2,200 hours researching, writing, and publishing, the Law and Ethics of the Veterinary Profession textbook now used in approximately 60% of the veterinary schools in the U.S.. Since that book was finished I have had the privilege of speaking at the American Association of Veterinary State Boards of Examiners' annual meeting in 1989, 1990, and 1991. Because of this, I have a pretty good pulse on what topics of are particular interest and concern among the veterinary state boards in this country. No other attorney with whom I am familiar has had this type of experience.

During the fall and winter of 1990-91 I was hired as an independent contractor to assist the Alabama State Board with the challenges presented to them by the Federal Trade Commission investigation of their practice act and regulations. They have adopted my recommended changes and the FTC now has approved all of the changes in their regulations. Additionally, I served as a consultant to the Missouri Board of Veterinary Examiners.

Because of my interest in veterinary law, and the fact I teach this subject at 5-7 veterinary schools each year, I have been collecting various state's practice acts and regulations. As you are aware, it was that collection of statutory examples and my knowledge of which were good and which were outdated that made the task of assembling your proposed new practice act an expeditious matter.

In summary, and not trying to be conceited, it has been the combination of the above experiences and my close work with the veterinary practice laws and regulations from many states that enabled me to come to your aid when your board needed some first hand assistance. To my knowledge, there is no one else in this country who has such experience and certainly no one else I know of who is the least bit interested in projects like this.

Sincerely yours,

James F. Wilson, DVM, JD  
Soc. Sec. No. 397-42-0789

2-6

March 29, 1992

David Holbrook  
Washington, Kansas

Dear Dave:

I enjoyed your visit to California. Hope all is well with you in Kansas.

In response to your question about how I feel about compulsory veterinary hospital inspection, I feel that the regulations and inspections are necessary.

I feel that the inspections are of benefit to veterinary clientele and that they deserve the protection the regulations and inspections provide.

It is not a hardship for California veterinarians to comply with these regulations.

I recommend similar regulations and inspections be implemented by the state of Kansas.

Best regards to you and your family.

*Ned E. Eib D.V.M.*

Ned E. Eib, D.V.M.  
2338 So. Elm Ave.  
Fresno, Calif 93706

**BAR MOUNTAIN RANCH**

Rt. 4 Box 179 — Porterville, California 93257  
Phone (805) 548-5273

March 30, 1962

Dear Dave Holbrook,

I have been a commercial and purebred Amerifax breeder in California for the past thirty years. The veterinarian and producer relationship has improved greatly over those thirty years.

The advice that the veterinarian has given me has help to alleviate costly reproductive diseases; guidance as to the vaccines to use and the time of year to administer these vaccines to my herd.

When sicknesses occur through the herd and in the geographic area, their advice has been sought as to doctoring and avoidance. The advice has been very successful.

Sincerely

*Walter Hunsaker*

Walter Hunsaker

STATE OF CALIFORNIA—STATE AND CONSUMER SERVICES AGENCY

PETE WILSON, Governor

**BOARD OF EXAMINERS IN VETERINARY MEDICINE**  
1420 HOWE AVENUE, SACRAMENTO, CALIFORNIA 95825  
TELEPHONE: (916) 920-7662

March 30, 1992

Bob Wingert, DVM  
Vice President  
Kansas Board of Veterinary Examiners  
North Star Route  
Lakin, Kansas 67860

**RE: CITATION AND FINE PROGRAM**

Dear Dr. Wingert:

The California Board of Examiners in Veterinary Medicine's Citation and Fine Program has increased the effectiveness of the complaint handling process by providing the Board with:

- 1.) A method to address violations of the law which would not normally warrant revocation or suspension of a license or criminal prosecution, i.e., false advertising violations, minor negligence and/or incompetence cases, selling legend drugs without establishing the proper doctor/client/patient relationship, or veterinarians practicing in California who have failed to renew their license.
- 2.) A method to address unlicensed activity violations. Often times there is little or no response given to unlicensed cases sent to the District Attorney's office by our Board.
- 3.) A relatively short period of time required to issue citations.

The average length of time it takes to process a citation is about four months and costs approximately \$380.00. If the same case was referred to the Attorney General's office, it would take approximately 12-14 months to review the case, draft the accusation, etc. and would cost anywhere from \$2,500 to \$5,000.

In summary, the Board has found the Citation and Fine Program to be very cost effective, as well as ensuring that the consuming public receives a timely disposition of their complaint.

10

Page/2  
March 30, 1992  
Dr. Wingert

The Board would encourage the adoption of the Citation and Fine Program as an alternative method to enforce your rules and regulations. If you have any further questions regarding this matter, please do not hesitate to contact me at (916) 920-7662.

Sincerely,



GARY R. HILL  
EXECUTIVE OFFICER

GKH:MTM

2-10



# TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

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LUFKIN, TEXAS

March 30, 1992

Earl E Gatz, DVM, Chairman  
Kansas Board of Veterinary Examiners  
Route 1  
Pratt, KS 67124

Dear Dr. Gatz:

Pursuant to a recent discussion that Dr. Tom Vincent and I had, it is my understanding that you are in the process of revising Kansas' process and procedures for taking disciplinary action against licensed veterinarians. Also in reviewing Board files the other day, I discovered some information that Don Wilson, my predecessor, had sent to Representative Teagarden as a response to his request.

I just wanted to let you know that, we feel, the process Texas has in place serves us very well. As you are probably aware, the Board has a number of alternatives from which to choose in taking disciplinary actions. This certainly has helped the Board in making the penalty fit the allegations (substantiated) more closely. In the Board's newsletter, we summarize the charges and the disciplinary actions taken against veterinarians at each Board meeting. Since cases are referred to in the newsletter by docket number only, the identity of the veterinarian is not revealed. A quick review of previous disciplinary actions taken by the Board, I feel, gives a strong indication of the Board's success in this area.

I wish you well in your efforts. If there is any other information we can share or if there are questions, please give us a call.

Sincerely,

Buddy Matthijetz  
Executive Director

ALABAMA STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS  
P O BOX 1767  
DECATUR AL 35602-1717  
205-353-3544

March 30, 1992

Dr. R. R. Domer  
2136 N.W. 39th  
Topeka, KS 66618

Attn:

Dear Dr. Domer:

This is in response to your recent request for information concerning Alabama Premise Inspection.

The Premise Inspection Program began in 1986 upon passage of a New Practice Act and Rules and Bylaws which required that all clinics, hospitals and mobile units be inspected by the State Board. All premises in Alabama were inspected the first year that the program was started and after the first year of inspection, the Board began a level-funding three year inspection procedure.

In the level-funding inspection procedure, one-third of the State is inspected each year on a rotating basis, with each premise paying an annual premise permit fee. New premises are mandated to be inspected prior to opening and must pay an inspection fee at the time of new inspection. After the initial inspection, the premise then falls under the level-funding procedure.

To date, this program has been very successful and we have received full cooperation from the Veterinary Profession in Alabama.

FOR THE ALABAMA STATE BOARD  
OF VETERINARY MEDICAL EXAMINERS

Ray A. Ashwander  
Executive Secretary

RAA:tsc

Faxed. 3-30-92

# VIRGINIA VETERINARY MEDICAL ASSOCIATION

March 30, 1992



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Board of Veterinary Medicine  
Kansas

Dear Dr. Moreland,

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Virginia instituted a mandatory hospital inspection program approximately 10 years ago. More importantly, along with inspections, the Board of Veterinary Medicine developed a set of minimum standards for veterinary hospitals and clinics. These standards were instituted over a period of years with increasing requirements each year, so as not to place a burden on the veterinary community.

In my opinion, mandatory inspections have improved the overall quality of veterinary facilities in Virginia and has given the consumer an added feeling of security.

Sincerely,

Steven A. Rogers D.V.M., President  
Virginia Veterinary Medical Association





Board of Veterinary Examiners

March 31, 1992

TO: Representative Lee Hamm, Chairman and  
Members of the House Agriculture Committee

RE: House Bill 3189 The Kansas Veterinary Practice Act

FROM: Earl E. Gatz, D.V.M., President  
Kansas Board of Veterinary Examiners

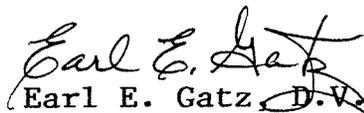
Dear Chairman and Members:

I have been a member of the Kansas Board of Veterinary Examiners since July of 1976, almost sixteen years. Eleven of those years I served as secretary-treasurer of the board and performed the tasks necessary for the administration of the Kansas Veterinary Law. During those years I was highly frustrated in attempting to answer complaints brought about by the public against veterinarians and in turn complaints by veterinarians against persons violating the law, such as practicing without a license.

The presentation by this board of a revised practice act is a sincere and genuine effort to improve the procedures in handling complaints, simplifying licensure, facility inspection and procedures for disciplining violators of the law. Also, the addition of two more members to the board will facilitate the administration of complaints in accordance with procedures set forth by the Kansas Attorney General.

As stated the purpose of the act is to promote the public health, safety and welfare. The assignment to promulgate this act is felt to be the duty and responsibility of the board of veterinary examiners and it is not the intention of the board to protect only the veterinary profession, but to assure the general public that they are entitled to the best possible veterinary service.

No doubt, this revision is not perfect and critics will want to delay its enactment, but it is the culmination of a great deal of effort by the board and especially the executive director of the board. The revision will be a great improvement and a tool to work with until we can again improve upon it. The board feels this legislation should be enacted as soon as possible and that it has had sufficient comprehensive consideration.

  
Earl E. Gatz, D.V.M.

HB 3189

TESTIMONY IN OPPOSITION TO HB 3189 BY WILLIAM L. ANDERSON  
(Presented to House Agriculture Committee March 31, 1992)

I am William L. Anderson. My wife, Dr. Debra K. Anderson, is a small animal veterinarian practicing in Topeka, Kansas. We are co-owners of a modern, small animal clinic in Western Topeka. Because I am an attorney working full time for a large Kansas agency which regulates most health facilities, my wife asked me to look at this bill. I am here only as the spouse of a veterinarian and co-owner of a veterinary clinic, however, in my experience in a regulatory agency, I would not submit a bill like this one.

The following are questions and concerns that both of us had with the bill. Every time the bill is looked at, many more concerns surface, the list is most likely incomplete.

PAGE 3, LINE 18: (k) defines "veterinary premises" as any premises where a licensed veterinarian practices. Line 5, page 2, (g) defines veterinary practice. Could a farmer's barn be declared veterinary premises for purposes of this act? Unclear.

PAGE 6, LINE 30 (e): this amendment allows the Board to set its own salary! Does the legislature want an administrative board to set its own compensation? Many licensing boards serve voluntarily with no compensation, just expenses to the hearings.

PAGE 7, LINE 10: The present words allowed inspections in case of violations by the veterinarian. The added words allow the board to inspect solely for the purpose of "discovering" violations. There are no limits or language of "upon complaint" by someone.

PAGE 7, LINE 21: Vigorously opposed to allowing the Board to fine as addressed later.

PAGE 8, LINE 16: This new language sets up a hearing procedure on the "records of practitioners", with no mention of the Kansas Administrative Procedure Act. It is for practitioners under charges of misconduct. There appears to be no definition for what this "misconduct" is.

PAGE 8, LINE 24 THROUGH LINE 37. The new language allows a maximum fee for new applicants for licensure of \$500 application and \$250 examination fee for a total of \$750. This is much too high for a new graduate to pay. The former maximum fee was \$250. This is a 300% increase to new graduates.

PAGE 10, LINE: Currently an applicant can receive his/her application fee back if they are disqualified in the application process. Under this language, an applicant could lose \$500 every time they applied.

PAGE 11, LINE 36, page 12, line 21, page 13, line 31: There is no

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ATTACHMENT 3

definition of what Kansas Veterinary Legal Practice Act consists of. I have been told what it is supposed to consist of, and it is my personal feeling that to require a currently licensed veterinarian to take a test over these statutes is an insult to the profession.

PAGE 14, LINE 27: Again the assessment of a fine. On line 31, the Board would have the power to fine someone or revoke their license for being judged ~~incompetent~~ by a judge, yet the Board could also waive continuing education requirements for that same person.  
*incapacitated*

PAGE 16, LINE 31: (u) defines unprofessional conduct as failing to furnish details of records to another? What if the client requesting the transfer of records owes a large bill? There have been veterinarians that convince people they see only on a one time emergency to hand over their records from the competitor. The old records are then used to create reminders for the "new" patient. I don't think the victim of this overly aggressive marketing should be declared unprofessional.

NEW SECTION, PAGE 19: This language sets up the requirement for another inspection, which unrelated to the inspection in the front of the bill. It requires a premises permit? What does this have to do with the ability of a veterinarian to practice. There is very little correlation. I have been in many large animal clinics which weren't show places, but the vet was a wonderful practitioner.

PAGE 19, LINE 25: Two new fees are set up, premises and inspection fee. There is absolutely no statutory cap on these fees. Why is a premises permit and inspection needed? Have there been hundreds or thousands of complaints about veterinarian clinics? This is a totally unnecessary law. What is the cost of all these numerous and onerous inspections? There are about 400+ nursing homes in Kansas. KDHE has at the present, 80 full time inspectors solely for the nursing home industry. This could require anywhere from \$1,600,000 to \$2,500,000. Even if put out solely on contract, the cost could still be incredible.

PAGE 20, LINE 20: The Board can take disciplinary against the premises permit? Disciplinary action is that taken against an individual. If a dirty mop is sitting around, is the disciplinary action going to be taken against the veterinarian? Why will action be taken against the permit or veterinarian is the clinic is managed by a non-veterinarian. How many one man large animal clinics have the wife manage the clinic while the veterinarian is out in the field?

Isn't it true that human hospitals are managed by non doctor administrators?

PAGE 22, LINE 7 THROUGH 12: This language allows a \$5,000 fine maximum for disciplinary reasons. Did you realize that the Board

of Healing Arts places a maximum of \$5,000 against medical doctors for their first offense? What heinous act have veterinarians, who don't earn a fraction of MDs, done to deserve this fining authority?

PAGE 22, LINE 23: This citation adds a double layer to the fining process without access to the Kansas Administrative Procedures Act. It allows one peer veterinarian who is not a member of the Board to make FINDINGS OF FACT with no hearing. There are no provisions which require or mandate any qualifications for this reviewing veterinarian. What would prevent the Board from letting the veterinarians competition be the reviewer. Most veterinarians are self employed. It would be almost impossible, financially for them to take the time to appeal these citations. It would be much less costly to just pay the fine. Where is the justice in this?

There appears to be no statement in this act allowing veterinarians to appeal any of these fines in district court.

PAGE 23, LINE 11 AND PAGE 24, LINE 3 & 4: The veterinarian is given 10 days to appeal a citation, then the Board can take up to 60 days to have an informal conference for a total of 70 days. However, on page 24, line 3, the veterinarian must notify the Board 30 days after receipt of the citation that he/she wants to contest the informal decision. This means they must give notice of appeal of the informal conference 40 days before the informal conference is even held.

The appeal after the informal conference under the KAPA is not state to be a DE NOVO appeal. This means that the Board could simply affirm the peer veterinarian's finding without a formal hearing process on the facts. There are no provisions for the findings of facts to be other than the reviewing veterinarians.

PAGE 23, LINE 27 is in direct conflict with PAGE 24, LINE 4.

As overreaching and expensive as this bill is, it should be shelved permanently.