



Kansas Pet Professionals

*Dedicated to Ensuring the Health of KANSAS Pets
and the Humane Care of ALL Animals.*

March 21, 2023

House Committee on Agriculture and Natural Resources
Written Testimony for House Bill 2437

RE: Oppose House Bill 2437

Dear Representative Rahjes and Committee Members,

Thank you for your time and the opportunity to provide opposing testimony regarding House Bill 2437 (HB 2437). My name is Tyler Kauer, and I am a consultant to the Kansas Pet Professionals which is a statewide organization of licensed breeders. Previously, I held the *program manager* position within the Animal Facilities Inspection Program, so I am very familiar with the history of the Kansas Pet Animal Act and the policies and procedures of the program as I have written many of them.

As this committee is aware, the Animal Facilities Inspection Program received a controversial audit in 2017. When I was hired as the program manager, I was tasked with responding to the audit findings and recommendations. An attorney of the department and I worked diligently to respond to the audit recommendations and successfully answered those recommendations. Those findings can be found in the 2020 post audit report.

I resigned in November of 2021 and was hired immediately as a private consultant to the Kansas Pet Professionals due to my expertise with the Kansas Pet Animal Act, the Animal Facilities Inspection Program, and the Department of Agriculture. In this role, I provide many services, one being statute, regulation and policy clarification and interpretation. I want to provide this industry a voice above the department of agriculture and Governor. Considering we are here today due to the Governor demanding this bill be heard. Governor Kelly has had this program under her thumb with the help of the animal rights groups that are not welcomed by the agriculture industry in Kansas.

During my time with the program, meetings with animal rights groups were forced upon the program, according to Secretary Beam, by the governor's office. Disclosure of these meetings were withheld from the pet animal advisory board along with many other actions of the department. I want to remind this committee that this Program and Act were created by the breeders of Kansas. The industry requested to be regulated to provide themselves with a level of professionalism and quality. With that in mind, it's important we involve the whole industry when creating laws relevant to them.

I want to also point out that the program currently has four new hires that are not familiar with the history of this program and act. I have had to provide historical context to the staff during board meetings for explanation of law as well as reiterate interpretation of law. It is important that these individuals become professionally informed of the program and act before implementing any new language.

With these concerns, below are the amendments the Kansas Pet Professionals request to be in support of House Bill 2437.



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Amendment Requests to HB2437:

- Referencing HB 2437, page 1, line 15, I am requesting the following change to the proposed language:
 - (b) "Adequate watering" means a supply of clean, fresh, potable water, supplied in a sanitary manner and ~~either, when species appropriate,~~ continuously accessible to each animal ~~or supplied at intervals suitable for the animal species, not to exceed intervals of 12 hours during all times that the animal is maintained on the licensed premises housed in the primary enclosure~~ unless the attending veterinarian has approved the animal not having continual access to water for a medical reason.
 - ▶ The purpose of this change is to limit the area of continuous water requirements to the animal's primary enclosure so that when not in their primary enclosure, an unnecessary violation is cited for example, the dog be out playing in a play yard or being groomed.
- Referencing HB 2437, page 3, line 34, I am requesting the following change to the proposed language:
 - Requested amendment: ~~(2) "Animal distributor premises" does not include any premises that holds a valid pet shop license as required by K.S.A. 47-1703, and amendments thereto, unless the operator of such premises also sells animals at wholesale.~~
 - ▶ The purpose of this change is due to the language being unnecessary as pet shop is defined per K.S.A. 47-1703 and clearly states the operating functions of a pet shop.
- Referencing HB 2437, page 3, line 42 and continued to page 4, line 1, I am requesting following change to the proposed language:
 - Requested amendment: ~~(cc) "Out of state distributor premises" includes motor vehicles or a portion thereof used in whole or in part for the keeping or transporting of animals for the purpose of selling or buying such animals~~
 - ▶ The purpose of this change is due to the unknown enforcement of this as the USDA has transportation laws that transporters shall follow as well as the ability to prove this requirement.
- Referencing HB 2437, page 9, line 19, I am requesting the following change to the proposed language:
 - Requested amendment: ~~(d)(e) (1) Any licensee, other than a temporary pet shop, who ceases to engage in activity requiring licensure pursuant to this act, at any premises for which such licensee holds a license shall notify the commissioner at least 30 days prior to the date of ceasing such activity. The licensee shall file disposition records for each pet animal on the premises disposed of in the 12 months prior to ceasing such activity.~~
 - ▶ The purpose of this change is that it is unnecessary as record requirements are established within regulations, specifically K.A.R. 9-18-7.



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- Referencing HB 2437, page 9, line 25, I am requesting the following change to the proposed language:
 - Requested Amendment: ~~*(2) The commissioner shall conduct a closing inspection within 60 days of the closing date provided by the licensee to the commissioner. The purpose of the closing inspection is to confirm that the licensee has ceased engaging in activity that requires a license pursuant to this act. If the commissioner finds that the licensee is still engaging in activity that requires a license, the licensee shall pay any assessed fees and fines and apply for the appropriate license pursuant to this act within five days of the closing inspection. Any application for a license under this paragraph shall be considered an initial application for licensure.*~~
 - ▶ The purpose of this change is that enforcement of inspections should be established within regulations so that the program has latitude to easily adjust should closing inspections overwhelm staff or funding is limited to perform inspections.

- Referencing HB 2437, page 9, line 34, I am requesting the following change to the proposed language:
 - Requested amendment: *(3) A licensee who is in the process of closing a licensed premises on September 30 may be issued a temporary closing license at the discretion of the commissioner. A temporary closing license shall be valid for 30 days. A licensee with a temporary closing license shall comply with the provisions of this act, including, but not limited to, requirements for disposition of records, ~~and a closing inspection.~~ The temporary closing license may be renewed at the discretion of the commissioner for a maximum of one additional 30-day period.*
 - ▶ The purpose of this change is to omit the requirement of the closing inspection. This can be established within regulation.

- Referencing HB 2437, page 9, line 42, continued to page 10, line 1, I am requesting the following change to the proposed language:
 - Requested amendment: ~~*(4) A licensee shall be considered in violation of this section if the commissioner is unable to perform a closing inspection because a licensee has vacated the licensed premises.*~~
 - ▶ The purpose of this change is to omit the requirement of the closing inspection. This can be established within regulation.

- Referencing HB 2437, page 11, line 38, continuing to page 12, line 1, I am requesting the following change to the proposed language:
 - Requested amendment: *(b) In adopting rules and regulations, the commissioner shall only adopt as rules and regulations for United States department of agriculture licensed animal distributors and animal breeders, and animal distributor and animal breeder premises the rules and regulations promulgated by the secretary of the United States department of agriculture, cited at 9 C.F.R. 3.1 through 3.12, pursuant to the provisions*



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~~of the United States public law 91-579 (7 U.S.C. § 2131 et seq.), commonly known as the animal welfare act_ consider: (1) Best management practices for the care and well-being of ~~dogs and cats~~ animals; (2) disease prevention; (3) morbidity and mortality data to the extent such data is available; and (4) generally accepted veterinary medical standards and ethical standards established by the American veterinary medical association~~

- ▶ The purpose of this change is to cover all animals per K.S.A. 47-1701 (d)(1), that the Kansas Pet Animal Act regulates.

- Referencing HB 2437, page 14, line 19, I am requesting the following change to the proposed language:
 - *(f) Any person found by the commissioner to be knowingly in noncompliance with this act by engaging in activity that requires a license pursuant to this act without such license shall be considered unlicensed. Any person determined to be unlicensed shall apply for a license within 30 days of such determination. Any person determined to be unlicensed and has not applied for an application within 30 days shall pay an unlicensed facility fee in an amount up to \$150 per day and \$500 per day for any subsequent violation of this act beginning from the date of noncompliance. Fees assessed under this subsection shall be in addition to any other fines or fees assessed pursuant to this act even if such person had previously been licensed.*
 - ▶ The purpose of this change is to allow a potential licensee a grace period to apply. Many citizens are unaware of the Kansas Pet Animal Act. We should not be setting a facility up for failure by fining them excessively if they could be a professional and beneficial licensee.

Additional Amendment Requests to the Kansas Pet Animal Act:

- We request to amend K.S.A. 47-1721 to require facilities who do not renew their license on or before December 31 shall be deemed closed and shall apply for a new license if they wish to open a new license in the future. A facility determined to be unlicensed shall pay an unlicensed facility fee in an amount up to \$150 per day and \$500 per day for any subsequent violation of this act beginning from the date of noncompliance. Fees assessed under this subsection shall be in addition to any other fines or fees assessed pursuant to this act even if such person had previously been licensed.
 - The purpose of this change is to avoid unnecessary legal work and pursuing of facilities if they have closed their facility. This also puts a further fine on the licensee should they be determined to operate without a license.

- We request to amend K.S.A. 47-1709 to require inspectors to follow the time frames provided to them on the licensee's application for routine inspections. Applicants must provide at least 3 days of the week and at least two consecutive hours for availability between Monday and Friday 7 am to 7 pm.



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- The purpose of this change is to allow the licensee more structure to their facility and provide the department with a better opportunity to complete an inspection. This will not affect complaint inspections.

- We request to amend K.S.A. 47-1709 to “(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. No license or permit shall be issued by the commissioner to an applicant described in this subsection until the premises for which application is made has passed a licensing or permitting inspection. 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 shall~~ be given to any person prior to inspection.”
 - The purpose of this change is to allow the facility success to pass an initial inspection. Allowing inspectors to arrive unannounced for an initial inspection sets a facility up for failure.

- We request to amend K.S.A. 47-1709 to “(b) The commissioner or the commissioner's authorized, trained representatives may inspect each premises for which a license or permit has been issued under K.S.A. 47-1701 et seq., and amendments thereto. 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 ~~shall need~~ not be given to any person prior to a routine inspection but shall not give more than a 12-hour notice of inspection.”
 - This allows inspectors more latitude to create their inspections in a responsible manner and ensures that facilities cannot drastically change the status of their facility.

- We request to amend K.S.A. 47-1721 (a) to “(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 paragraphs (5) through (8) and paragraph (10) 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 \$450;~~
 - (2) ~~except as provided in paragraphs (5) through (8) and paragraph (10) for a license for any other premises, an amount not to exceed \$600;~~
 - (3) ~~for a temporary closing permit, an amount not to exceed \$95;~~
 - (4) ~~for an out of state distributor permit, an amount not to exceed \$675;~~



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~~(5) for a hobby breeder license or a kennel operator license an amount not to exceed \$250;~~

~~(6) for an animal shelter in a first-class city, as defined in K.S.A. 13-101, and amendments thereto, not to exceed \$400;~~

~~(7) for an animal shelter in a second-class city, as defined in K.S.A. 14-101, and amendments thereto, not to exceed \$335;~~

~~(8) for an animal shelter in a third-class city, as defined in K.S.A. 15-101, and amendments thereto, not to exceed \$285;~~

~~(9) the same amount for each entity required to be licensed under the Kansas Pet Animal Act. Such license fee shall not exceed \$500. A temporary closing~~

~~permit fee shall not exceed \$95, a caregiver permit fee shall not exceed \$200, and an out-of-state distributor permit shall not exceed \$675. a~~

~~late fee of \$70 shall be assessed to any person whose permit or license renewal is not renewed prior to October 1; and~~

~~(10) for a~~Any premises required to be licensed under the Kansas pet animal act under multiple license categories, ~~payment shall pay~~ for only the most expensive license and a \$50 fee for each additional applicable license. Such premises shall comply with the applicable laws and rules and regulations pertaining to each license category.”

- The purpose of this change is to require all entities regulated under the Pet Animal Act to pay the same fee versus having different fee amounts.

- We request to amend K.S.A. 47-1721 (d)(1) to “(d)(1)Failure by the owner of a premises, a licensee or a permittee, or their designated representative, to make a premises available for inspection two consecutive times within 30 minutes within a timely manner of the arrival of the inspector or the inspector's authorized representative shall be considered a no-contact inspection. Each no-contact inspection shall result in a \$200 no-contact fee against the owner of the premises, the licensee or the permittee. The commissioner or the commissioner's authorized representative shall make a second or subsequent attempt to inspect the premises.”

- The purpose of this change is to allow one no contact for a facility without being fined. This will allow them to communicate with the inspector the best times to contact them for inspection. Should a second consecutive no contact occurs, then a \$200 no contact fee will be issued. This change will also allow some flexibility for the inspector and the licensee. The definition of timely manner can be established in either regulation or policy.

- We request to amend K.S.A. 47-1701 (g) to (g) "Animal shelter" or "pound" means a facility that is used or designed for use to house, contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. ~~Animal shelter or pound also includes a facility of an individual or organization, profit or nonprofit, maintaining 20 or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining the animals or offering the animals for adoption.”~~



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- The purpose of this change is to eliminate the program's burden to license and enforce regulations that do not apply to hoarders. Hoarding is a mental health disease and should be regulated by a department that can provide proper resources for these situations. Simply licensing these individuals applies a "band aid" to a bigger issue.

- We request to amend K.S.A. 47-1706 (e) to "(e) Whenever the commissioner denies, suspends or revokes a license or permit under this section, the commissioner 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 permit is denied, suspended or revoked if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. No animals shall be seized unless the sheriff or other law enforcement officer presents a warrant for the seizure of such animals and a licensed veterinarian is in attendance during such seizure. No animal shall be transported outside the state within 30 days of the date of such seizure. Except as provided by K.S.A. 2015 Supp. 21-6412, 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 permit 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 permit is not denied, suspended or revoked, the commissioner shall pay the costs of care and services provided during seizure and impoundment.
 - The purpose of this change is to provide the department and program support from law enforcement to issue cruelty charges. Should a seizure be warranted, cruelty charges should be filed as it related to the animals' health, safety, or welfare.

- We request to amend K.S.A. 47-1707 (c) to "(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. No animals shall be seized unless the sheriff or other law enforcement officer presents a warrant for the seizure of such animals and a licensed veterinarian is in attendance during such seizure. No animal shall be transported outside the state within 30 days of the date of such seizure. Except as provided by section 223 of chapter 136 of the 2010 Session Laws of Kansas, 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



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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.

- The purpose of this change is to provide the department and program support from law enforcement to issue cruelty charges. Should a seizure be warranted, cruelty charges should be filed as it related to the animals' health, safety, or welfare.

- We request to amend K.S.A. 47-1715 (b) to “(b) Upon a conviction of a person for any violation of the Kansas pet animal act, or any rule and regulation adopted hereunder, the court shall order the commissioner to seize and impound any animals in the convicted person's possession, custody or care if there are reasonable grounds to believe that the animals' health, safety or welfare is endangered. No animals shall be seized unless the sheriff or other law enforcement officer presents a warrant for the seizure of such animals and a licensed veterinarian is in attendance during such seizure. No animal shall be transported outside the state within 30 days of the date of such seizure. Except as provided by K.S.A. 2015 Supp. 21-6412, 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 convicted person. Such funds shall be paid to the commissioner for reimbursement of care and services provided during seizure and impoundment. If the person is not convicted, the commissioner shall pay the costs of care and services provided during seizure and impoundment.

- The purpose of this change is to provide the department and program support from law enforcement to issue cruelty charges. Should a seizure be warranted, cruelty charges should be filed as it related to the animals' health, safety, or welfare.

- We request to amend K.S.A. 47-1725 to “Kansas pet animal advisory board; duties and powers. (a) There is hereby created the Kansas pet animal advisory board, consisting of 10 members. All members shall be appointed by vote of the board with the governor providing the board three applicants for each entity~~Members shall be appointed by the governor~~ as follows:

- (1) ~~(1)~~ One member shall be a representative of a licensed animal shelter or pound;
- (2) one member shall be an employee of a licensed research facility;
- (3) one member shall be a licensed animal breeder;
- (4) one member shall be a licensed retail breeder;
- (5) one member shall be a licensed pet shop operator;
- (6) one member shall be a licensed veterinarian and shall be selected from a list of three names presented to the governor by the Kansas veterinary medical association;
- (7) one member shall be a private citizen with no link to the industry;
- (8) one member shall be a licensed animal distributor;
- (9) one member shall be a licensed hobby breeder; and



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(10) one member shall be a licensed boarding or training kennel operator.

(b) Each member shall be appointed for a term of three years and until a successor is appointed and qualified.

(c) ~~*The governor shall provide three applicants for a vacancy on the board to the board for a vote of appointment of a member shall be filled within 90 days of the vacancy for the unexpired term by appointment by the governor.*~~

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

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

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

- (1) To advise the animal health commissioner on hiring a director to implement the Kansas pet animal act;
- (2) to review the status of the Kansas pet animal act;
- (3) to make recommendations on changes to the Kansas pet animal act; and
- (4) to make recommendations concerning the rules and regulations for the Kansas pet animal act.

(g) Board members who are required to be licensed except retail breeders shall be affiliated with or a member of an organized pet animal association which is representative of the position such person will hold on the board

(h) *The Department of Agriculture and Animal Facilities Inspection Program shall present drafted legislation to the pet animal advisory board prior to submission.* "

- The purpose of this change is to have a more industry lead board, ensure vacancies are filled in a timely manner and to require the department and program be held to basic moral procedures.

- We recommend amending the Kansas Pet Animal Act by adding a caregiver definition and license for those utilizing individuals providing temporary care to animals that they do not own. This would require a \$200 license fee per individual along with an initial inspection, routine inspections according to K.A.R 9-19-9, and complaint inspections. This caregiver would need to be connected to the contracted licensee. As such, these individuals shall follow K.A.R. 9-18-28 with verbiage changes to reflect the act of a foster home and breeding guardian home.
- We recommend amending the Kansas Pet Animal Act by licensing groomers and referencing Colorado Codes for creation of such regulations. See below the Colorado code specific to groomers.
 - *"Groomer" means any person engaged in the operation of changing the physical appearance of the skin, coat, hair, or feathers of pet animals at a licensed pet animal groomer facility for compensation.*
 - *"Groomer facility" means any permanent or mobile establishment where a person pays a fee to have his pet animal's skin, coat, hair, or feathers cleaned, styled, or maintained or where a person pays to have his animal's physical appearance changed.*



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- *Pet animal grooming licensure conditions and exceptions. 2.7.1. Any licensed groomer may groom as an independent contractor at up to 3 PACFA licensed grooming facilities with the same groomer license. On the application for licensure, such groomers shall identify themselves as such and shall provide a facility name and street address for each premises at which they groom pet animals. Any groomer who adds or removes a location or premises from which or at which he or she intends to groom shall notify the Department of any change within 15 days of such change.*
- *Persons providing any of the following services exclusively do not require licensure with PACFA: dog and cat nail trims, pet animal oral hygiene, pet animal ear cleaning, or pet animal anal gland expression.*
- *Grooming work areas at retail/wholesale, animal shelter, and boarding/training facilities must be physically separated from enclosures, animal food storage or preparation areas, and isolation areas. Anyone who desires an exemption from this requirement may make a request to the Commissioner, which request will be accepted only in written form*
- *Towels used to dry pet animals in a grooming or boarding/training facility must be adequately laundered before they are used on any other pet animal.*
- *Equipment used in a grooming or boarding facility such as brushes, combs, and clipper blades must be cleaned and sanitized between uses on different animals.*
- *Hair on the floor around a grooming station must be removed after an animal is groomed and before any other animal may be groomed.*
- *In boarding/training facilities and grooming facilities dogs from different households may be commingled in common areas, under constant and direct supervision, with the written consent of the owners.*
- *Pet animal grooming, boarding/training and breeding facilities shall have a working relationship with a veterinarian to provide timely veterinary care. The name and phone number of the veterinarian must be available to the inspector upon request.*
- *Grooming facilities may not administer tranquilizers, sedatives, or any other pharmaceutical drug designed to calm an animal during the grooming process.*
- *Tethering of pet animals is prohibited except for dogs and cats for grooming and for dogs when cleaning their enclosures.*
- *Tethering must be done in a manner that prevents the tethered animal from entanglement with other pet animals or other objects.*
- *Dogs or cats tethered on a raised surface must have constant direct human supervision.*
- *Tethers must be attached to the animal by means of a well-fitted and non-tightening collar or loop with a swivel on the collar or non-tightening loop.*
- *Untethered dogs or cats groomed on a raised surface must have constant and direct human supervision.*
- *For grooming and boarding/training facilities, an incident file must be kept within each facility for animals sustaining injury or illness requiring veterinary care or death or for any escape. Each report must include date of incident, pet's name, breed/species, age, owner's name and contact information, description of incident, and course of action.*
- *In the event of either death or escape at a boarding/training facility or at a grooming facility, the licensee must notify PACFA in writing within 72 hours.*



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As you can see from the number of amendments requested above, the Kansas Pet Animal Act is in need of further changes than what the department has introduced to you. It's also important to note that the pet animal advisory board was not informed of this legislation prior to being submitted by the department. I ask you what the purpose of the board or the act is if the department chooses to enforce only what the governor requests?

This program has potential for growth if the department and program prioritized development of the above suggested changes rather than enforcing out licensees that are trying to improve their facilities. How are we to have a stable program if they wish to set up the facilities for failure?

I ask that you take these requests into consideration should you move forward with this bill. Until each item above is addressed, the Kansas Pet Professionals oppose House Bill 2437 as it is written. Thank you for your time. I'm happy to answer any questions you may have via email at petprofessionalsconsulting@gmail.com and phone at 913-256-9924.

Respectfully,

Tyler Kauer
Pet Professional Consulting