

Substitute for HOUSE BILL No. 2542

By Committee on Agriculture and Natural Resources

2-21

1 AN ACT concerning agriculture; relating to the Kansas pet animal act;
2 requiring the Kansas department of agriculture to maintain records of
3 inspections for not less than five years and removing the requirement
4 that the commissioner only apply federal rules and regulations to
5 United States department of agriculture licensed animal distributors and
6 animal breeders; amending K.S.A. 47-1701, 47-1709 and 47-1712 and
7 repealing the existing sections.
8

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

10 Section 1. K.S.A. 47-1701 is hereby amended to read as follows: 47-
11 1701. As used in the Kansas pet animal act, unless the context otherwise
12 requires:

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

17 (b) "Adequate watering" means a supply of clean, fresh, potable
18 water, supplied in a sanitary manner and either continuously accessible to
19 each animal or supplied at intervals suitable for the animal species, not to
20 exceed intervals of 12 hours.

21 (c) "Ambient temperature" means the temperature surrounding the
22 animal.

23 (d) (1) "Animal" means any live dog, cat, rabbit, rodent, nonhuman
24 primate, bird or other warm-blooded vertebrate or any fish, snake or other
25 cold-blooded vertebrate.

26 (2) "Animal" does not include horses, cattle, sheep, goats, swine,
27 ratites, domesticated deer or domestic fowl.

28 (e) "Animal breeder" means any person who operates an animal
29 breeder premises.

30 (f) "Animal breeder premises" means any premises where all or part
31 of six or more litters of dogs or cats, or both, or 30 or more dogs or cats, or
32 both, are sold, or offered or maintained for sale, primarily at wholesale for
33 resale to another.

34 (g) "Animal shelter" or "pound" means a facility that is used or
35 designed for use to house, contain, impound or harbor any seized stray,
36 homeless, relinquished or abandoned animal or a person who acts as an

1 animal rescuer, or who collects and cares for unwanted animals or offers
2 them for adoption. "Animal shelter" or "pound" also includes a facility of
3 an individual or organization, profit or nonprofit, maintaining 20 or more
4 dogs or cats, or both, for the purpose of collecting, accumulating, amassing
5 or maintaining the animals or offering the animals for adoption.

6 (h) "Cat" means an animal that is wholly or in part of the species
7 *Felis domesticus*.

8 (i) "Commissioner" means the animal health commissioner of the
9 Kansas department of agriculture.

10 (j) "Dog" means any animal that is wholly or in part of the species
11 *Canis familiaris*.

12 (k) "Animal control officer" means any person employed by,
13 contracted with or appointed by the state, or any political subdivision
14 thereof, for the purpose of aiding in the enforcement of this law, or any
15 other law or ordinance relating to the licensing or permitting of animals,
16 control of animals or seizure and impoundment of animals, and includes
17 any state, county or municipal law enforcement officer, dog warden,
18 constable or other employee, whose duties in whole or in part include
19 assignments that involve the seizure or taking into custody of any animal.

20 (l) "Euthanasia" means the humane destruction of an animal, ~~which~~
21 *that* may be accomplished by any of those methods provided for in K.S.A.
22 47-1718, and amendments thereto.

23 (m) "Hobby breeder premises" means any premises where all or part
24 of three, four or five litters of dogs or cats, or both, are produced for sale
25 or sold, offered or maintained for sale per license year. This provision
26 applies only if the total number of dogs or cats, or both, sold, offered or
27 maintained for sale is ~~less~~ *fewer* than 30 individual animals.

28 (n) "Hobby breeder" means any person who operates a hobby breeder
29 premises.

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

32 (p) "Boarding or training kennel operator" means any person who
33 operates an establishment where four or more dogs or cats, or both, are
34 maintained in any one week during the license year for boarding, training
35 or similar purposes for a fee or compensation.

36 (q) "Boarding or training kennel operator premises" means the
37 facility of a boarding or training kennel operator.

38 (r) "License year" or "permit year" means the 12-month period
39 ending on September 30.

40 (s) "Person" means any individual, association, partnership,
41 corporation or other entity.

42 (t) (1) "Pet shop" means any premises where there are sold, or offered
43 or maintained for sale, at retail and not for resale to another:

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

1 by the veterinarian at least once a year;

2 ~~(B)(2)~~ that diseased, ill, injured, lame or blind animals shall be
3 provided with veterinary care as is needed for the health and well-being of
4 the animal, and such veterinary care shall be documented and maintained
5 on the premises; and

6 ~~(C)(3)~~ all documentation required by ~~subsections (dd)(1)(A)~~
7 ~~paragraphs (1) and (dd)(1)(B)~~ (2) shall be made available to the
8 commissioner or the commissioner's authorized representative for
9 inspection or copying upon request and shall be maintained for three years
10 after the effective date of the program or the administration of such
11 veterinary care.

12 ~~(2) "Adequate veterinary medical care" shall not apply to United~~
13 ~~States department of agriculture licensed animal breeders or animal~~
14 ~~distributors.~~

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

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

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

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

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

28 Sec. 2. K.S.A. 47-1709 is hereby amended to read as follows: 47-
29 1709. (a) The commissioner or the commissioner's authorized, trained
30 representatives shall make an inspection of the premises for which an
31 application for an original license or permit is made under K.S.A. 47-1701
32 et seq., and amendments thereto, before issuance of such license or permit.
33 No license or permit shall be issued by the commissioner to an applicant
34 described in this subsection until the premises for which application is
35 made has passed a licensing or permitting inspection. The application for a
36 license shall conclusively be deemed to be the consent of the applicant to
37 the right of entry and inspection of the premises sought to be licensed or
38 permitted by the commissioner or the commissioner's authorized, trained
39 representatives at reasonable times with the owner or owner's
40 representative present. Refusal of such entry and inspection shall be
41 grounds for denial of the license or permit. Notice need not be given to any
42 person prior to inspection.

43 (b) The commissioner or the commissioner's authorized, trained

1 representatives may inspect each premises for which a license or permit
2 has been issued under K.S.A. 47-1701 et seq., and amendments thereto.
3 The acceptance of a license or permit shall conclusively be deemed to be
4 the consent of the licensee or permittee to the right of entry and inspection
5 of the licensed or permitted premises by the commissioner or the
6 commissioner's authorized, trained representatives at reasonable times
7 with the owner or owner's representative present. Refusal of such entry
8 and inspection shall be grounds for suspension or revocation of the license
9 or permit. Notice shall not be given to any person prior to inspection.

10 (c) The commissioner or the commissioner's authorized, trained
11 representatives shall make inspections of the premises of a person required
12 to be licensed or permitted under K.S.A. 47-1701 et seq., and amendments
13 thereto, upon a determination by the commissioner that there are
14 reasonable grounds to believe that the person is violating the provisions of
15 K.S.A. 47-1701 et seq., and amendments thereto, or rules and regulations
16 adopted thereunder or that there are grounds for suspension or revocation
17 of such person's license or permit.

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

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

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

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

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

37 (i) Records of inspections pursuant to this section shall be maintained
38 in the office of the Kansas department of agriculture division of animal
39 health. ~~Records of a deficiency or violation shall not be maintained for~~
40 ~~longer not less than three five years after the deficiency or violation is~~
41 ~~remedied.~~

42 (j) The commissioner, in consultation with Kansas state university
43 college of veterinary medicine, shall: (1) Continue procedures to provide

1 for pet animal training or updated training for authorized trained
2 representatives who inspect premises under the pet animal act and to allow
3 the owners of such facilities licensed or permitted under the pet animal act
4 to attend and participate at the training workshops for the authorized
5 trained representatives; and (2) make available to such owners and other
6 interested persons an inspection handbook describing the duties and
7 responsibilities of such authorized trained representatives.

8 (k) If the commissioner or the commissioner's authorized
9 representative is denied access to any location where such access is sought
10 for the purposes authorized under the Kansas pet animal act, the
11 commissioner may apply to any court of competent jurisdiction for an
12 administrative search warrant authorizing access to such location for such
13 purposes. Upon such application and a showing of cause therefore, the
14 court shall issue the search warrant for the purposes requested.

15 Sec. 3. K.S.A. 47-1712 is hereby amended to read as follows: 47-
16 1712. (a) The commissioner is hereby authorized to adopt rules and
17 regulations for licensees and permittees. Such rules and regulations shall
18 include, but not be limited to, provisions relating to: (1) Reasonable
19 treatment of animals in the possession, custody or care of a licensee or
20 permittee or being transported to or from licensed or permitted premises;
21 (2) a requirement that each licensee and permittee file with the
22 commissioner evidence that animals entering or leaving the state are free
23 from any visible symptoms of communicable disease; (3) identification of
24 animals handled; (4) primary enclosures; (5) housing facilities; (6)
25 sanitation; (7) euthanasia; (8) ambient temperatures; (9) feeding; (10)
26 watering; (11) adequate veterinary medical care; (12) inspections of
27 licensed or permitted premises, investigations of complaints and training
28 of persons conducting such inspections and investigations; and (13) a
29 requirement that each licensee or permittee keep and maintain, for
30 inspection by the commission, such records as necessary to administer and
31 enforce the provisions of the Kansas pet animal act.

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

39 (c) ~~Notwithstanding any provision in subsection (b), the~~
40 ~~commissioner~~ may adopt a requirement that each licensee and permittee
41 file with the commissioner evidence that animals entering or leaving the
42 state are free from any visible symptoms of communicable disease.

43 Sec. 4. K.S.A. 47-1701, 47-1709 and 47-1712 are hereby repealed.

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