

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 47

As Amended by House Committee on
Agriculture

Brief*

SB 47 would amend the Kansas Pet Animal Act (Act) in various ways.

Animal rescue networks. The bill would create two new sections in the Act for animal rescue networks (Sec. 1 and 2). It would require any person operating a network to obtain a rescue network manager license from the Animal Health Commissioner (Commissioner), would establish the duties of rescue network managers, and would require the Commissioner to adopt rules and regulations regarding animal rescue networks. The bill would also require animal shelters or rescue networks to provide notification of all regularly scheduled off-site adoption events before January 1 of each calendar year. Animal shelters or rescue networks would also be required to provide notification for any additional adoption events.

Definitions. The bill would make several modifications to the definition section of the Act (Sec. 3). Specifically, it would add clarifying language to the definitions of "adequate watering," "animal breeder premises," "animal shelter," "pet shop," "primary enclosure," and "out-of-state distributor." The bill would also create definitions for "rescue network," "rescue network manager," and "pet animal foster home," while eliminating definitions for "hobby breeder premises," "hobby breeder," "retail breeder," "retail breeder premises," "retail," and "wholesale." The bill would remove the requirement of state licensees to provide veterinary care documentation to

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the Commissioner and the exemption for U.S. Department of Agriculture (USDA) licensees from the definition of “adequate veterinary medical care” and would insert these provisions elsewhere in the Act. It would also change the definition of “license year” or “permit year” to the 12-month period ending on September 30 and apply that change to each license and permit identified in the Act.

Foster homes. The bill would allow animal shelter licensees to utilize pet animal foster homes. Operators of animal shelters would be responsible for ensuring pet animal foster homes comply with the Act and be required to keep all records pertaining to pet animal foster homes. (Sec. 6)

License revocation. The bill would add two additional criteria for the Commissioner to suspend or revoke any license or permit issued under the Act (Sec. 7):

- Three failed inspections within 24 months; or
- Refusal of entry onto the licensed premises for inspection.

The bill would also prohibit a person convicted of cruelty to animals at the city, county, or federal level from receiving any license or permit that may be issued under the Act.

Inspections. The bill would make several changes to the process by which licensed facilities are inspected (Sec. 8). It would require notification of inspection for any inspection conducted for an original license. It would also require that no notification be given prior to inspections conducted for existing licenses. The bill would require the Commissioner to adopt, through administrative rules and regulations, an inspection frequency schedule. The frequency schedule would be required to take into account the performance history of a licensed premises or the risk posed by a premises to the welfare of the animals.

Also, the bill would require all licensed breeders in the state to comply with State standards of “adequate veterinary medical care” (Sec. 8). For USDA licensees, if their USDA veterinary care forms are maintained in compliance with USDA regulations, then the forms would be deemed in compliance with State standards when the forms are made available to the Commissioner or the Commissioner’s authorized, trained representative for inspection.

Disposal process. The bill would clarify the process by which licensed animal shelters may dispose of animals (Sec. 9). Currently, an animal shelter is required to keep an animal for a minimum of three full business days before disposing of the animal, whether that be through sale, euthanasia, or some other method. The bill would specify the minimum time period would not include the day the animal arrived at the animal shelter. The bill would also amend the conditions in which an animal shelter may euthanize an animal. Under current law, an animal may be euthanized if it were “diseased or disabled beyond recovery for any useful purpose.” Under the bill, an animal shelter would be able to euthanize an animal if it were “diseased or disabled beyond recovery.” The bill would also condense separate subsections regarding the disbursement of proceeds derived from the sale of animals.

Federal regulations. The bill would require the Commissioner to recognize federal regulations regarding facility operations and husbandry standards for animal breeders and animal distributors (Sec. 11). Additionally, the bill would allow the Commissioner to require USDA licensees to comply with State regulations regarding maintenance and inspection of records, identification of animals, and access to and inspection of premises.

Fees. The bill would make adjustments to the fee structure for the fees that may be prescribed by the Commissioner (Sec. 13). It would clarify the fee structure by eliminating certain fees and creating new fees. It would also replace the statutory maximums of some fees with a prescribed amount. The fee changes would be as follows:

- Uniform fee for all animal distributors: prescribed amount of \$400;
- Uniform fee for all animal breeders: an amount not to exceed \$450;
- Uniform fee for all pet shop licenses: an amount not to exceed \$600;
- Elimination of the fee for a temporary closing permit;
- Fee for an out-of-state distributor permit: prescribed amount of \$650;
- Elimination of hobby breeder license and kennel operator license fees;
- Fee for a research facility: prescribed amount of \$300;
- New fee for a boarding or training premises operator license: prescribed amount of \$200;
- Fee for an animal shelter license: an amount not to exceed \$550;
- New fee for a rescue network manager license: prescribed amount of \$125;
- New fee for each animal foster home affiliated with a rescue network or animal shelter: an amount not to exceed \$10, which may be paid by the rescue network or animal shelter; and
- Late fee of \$100 for any license or permit renewal received by Kansas Department of Agriculture (KDA) after September 30.

The bill would also create a no-contact fee of \$80 for each no-contact inspection. It would define a “no-contact

inspection" as any inspection in which the inspector could not inspect the premises on a second or subsequent consecutive attempt, because the owner or the owner's designated representative was:

- Not present for inspection during the day and time indicated on the owner's application; and
- Either unreachable by telephone at the time of the inspection or was unable to reach the premises within 30 minutes of telephone contact.

The bill would additionally create fees for re-inspection after a failed inspection. The first re-inspection fee would be \$80 and the second re-inspection fee would be \$100. All moneys from re-inspection fees would be remitted to the Compliance Education Fee Fund of KDA, which would be created by the bill.

For premises that require more than one license under the conditions of the Act, the bill would require such premises to pay for the most expensive license and a \$50 fee for each additional license. The bill would also allow the Commissioner to assess a civil penalty up to three times the annual license fee for any premises operating without a license or permit.

Advisory board. The bill would amend the composition of the Kansas Pet Animal Advisory Board (Sec. 15) as follows:

- Require all members to be residents of the state;
- Add additional language to the requirement that one member be an employee of a licensed research facility by allowing that member to be employed at a research facility operated by a public education institution in the state;
- Require one member to be a USDA-licensed breeder;

- Require one member who is not a USDA-licensed breeder;
- Add clarifying language that the private citizen member be an individual not licensed under the Act and have no professional affiliation with someone licensed under the Act;
- Eliminate the requirement that one member be a hobby breeder;
- Require one member be a licensed rescue network manager; and
- Eliminate the requirement any board member required to be licensed be a member of a pet animal organization that is representative of the position that person will hold on the board.

Veterinary students who spay or neuter dogs or cats. The bill would also amend the limitation that only licensed veterinarians or veterinary students at Kansas State University who have completed at least two years of study may spay or neuter a dog or cat for an animal shelter. Instead, it would allow licensed veterinarians or any veterinary students at any accredited college of veterinary medicine who have completed at least two years of study to spay or neuter a dog or cat on behalf of an animal shelter. (Sec. 17)

Effective date. The bill would be in effect upon publication in the *Kansas Register*.

Background

SB 47 was introduced by the Senate Committee on Agriculture and Natural Resources at the request of the KDA.

Senate Action

During the Senate Committee on Agriculture and Natural Resources hearing on the bill, a representative of the KDA testified in favor of the bill. The representative said consolidating licensee categories would produce greater efficiency and the adjustment of fees would provide an alternative to funding from the State General Fund (SGF). In addition, proponent testimony was provided by representatives of the Humane Society of the United States (HSUS), the Kansas Livestock Association (KLA), the Humane Society Legislative Fund of Kansas, the Humane Society of Greater Kansas City, and a dual USDA- and state-licensed breeder from Kansas.

Opponent testimony was offered by representatives of the Kansas Federation of Animal Owners and a dual USDA- and state-licensed breeder from Kansas.

No neutral testimony was provided.

During initial work on the bill, the Senate Committee adopted the following amendments:

- Allow animal shelters and rescue networks to provide annual notification of regular, off-site adoption events and additional notification for extra events instead of requiring notification for each individual event;
- Reduce the annual fee for foster homes from \$30 to \$10 and allow the Commissioner to charge an additional paper processing fee of up to \$10;
- Change the effective date of the bill to its publication in the *Kansas Register*;
- Amend the inspection notification process by requiring notification for original license inspections and prohibiting notification for inspections of current licenses; and

- Create an \$80 fee for refusal of entry by any licensee during an attempted inspection.

The Chairperson of the Senate Committee then appointed a Subcommittee to consider further amendments to SB 47. The Subcommittee recommended retaining the following amendments that were previously adopted by the full Committee:

- Allow animal shelters and rescue networks to provide annual notification of regular, off-site adoption events and additional notification for extra events instead of requiring notification for each individual event;
- Change the effective date of the bill to its publication in the *Kansas Register*; and
- Amend the inspection notification process by requiring notification for original license inspections and prohibiting notification for inspections of current licenses.

The Subcommittee then recommended additional amendments as follows:

- Raise the annual fee for pet animal foster homes from the initially proposed \$10 to a statutory maximum of \$20;
- Eliminate the additional paper processing fee of up to \$10 for pet animal foster home fees;
- Move the pet animal foster homes fee from Sec. 1 to Sec. 13 and eliminate a reference to the fee in Sec. 6;
- Remove language regarding compliance with “adequate veterinary medical care” from Sec. 3 and move it to Sec. 8;

- Add two additional reasons the Commissioner may suspend or revoke a license or permit in Sec. 7:
 - Three failed inspections within 24 months; and
 - Refusal to allow entry for inspection;
- Eliminate the \$80 refusal of entry fee;
- Eliminate language in Sec. 8 that allowed refusal of entry and inspection to be grounds for denial, suspension, or revocation of a license or permit since such language was added to Sec. 7;
- Require, rather than allow, the inspection frequency schedule adopted pursuant to administrative rules and regulations take into account the performance history of a premises;
- Add a no-contact fee of \$80 to Sec. 13;
- Define “no-contact inspection” as an inspection where the owner or the owner’s designated representative:
 - Was not present during the day and time listed on the owner’s application; and
 - Was either unreachable by telephone or could not arrive at the premises within 30 minutes of being contacted by telephone;
- Add a first re-inspection fee of \$100 and a second re-inspection fee of \$150; and
- Require all revenue from re-inspection fees be remitted to the State Treasurer for deposit in the Compliance Education Fee Fund, which would be created by the bill.

During final action on SB 47, the Senate Committee adopted the Subcommittee’s recommended amendments.

The Senate Committee then amended the bill so moneys received from re-inspection fees would be remitted to the KDA's Compliance Education Fee Fund.

House Action

During the hearing in the House Committee on Agriculture, representatives of the KDA, KLA, HSUS, Second Chance Animal Refuge Society, Unleashed Pet Rescue and Adoption, and an owner of an animal rescue provided testimony in favor of the bill. Written testimony in favor of the bill was provided by representatives of the Humane Society Legislative Fund of Kansas, Humane Society of Greater Kansas City, Kansas Animal Control Association, Kansas Humane Society, Lawrence Humane Society, Leavenworth County Humane Society, Lee's Paws and Claws Animal Shelter, and The Salina Animal Shelter. The Mayor of the City of Alma, the Animal Services Director for Kansas City, Kansas, five members of the public, four foster licensees, and one animal control officer also provided written-only proponent testimony.

Opponent testimony was provided by two members of the Kansas Pet Animal Advisory Council who testified against the Senate amendments to the bill. In addition, a representative of the Kansas Federation of Animal Owners provided testimony against the bill. Written-only opponent testimony was provided by a representative of the Pet Industry Joint Advisory Committee and an animal breeder.

No neutral testimony was provided.

The House Committee amended the bill to:

- Strike the word “will” and insert “shall” with regard to the provisions in Sec. 8 relating to notice given to persons prior to inspection;

- Allow veterinary care forms that are maintained in compliance with USDA regulations to automatically meet the State requirements for USDA-licensed animal breeders and distributors, when the forms are made available to the Commissioner or the Commissioner's authorized, trained representative for inspection;
- Reduce the fee cap for animal foster homes from \$20 (Senate Committee amendment) to \$10;
- Reduce the fees for a first re-inspection from \$100 to \$80 and for a second re-inspection from \$150 to \$100;
- Clarify that “no-contact inspection” would mean “made on a second or subsequent consecutive attempt.”; and
- Make several technical changes re-designating subsections, paragraphs, sub-paragraphs, and clauses.

Fiscal Note

According to the fiscal note prepared by the Division of the Budget on SB 47, as introduced, the Animal Health Division of KDA budgets 25.0 percent of its SGF appropriations to the Animal Facilities Inspection (AFI) program, which inspects both large commercial animal and pet animal facilities. However, the AFI program has been using up to 56.0 percent of the SGF available to the Division to fulfill its statutory obligations. KDA estimated enactment of the bill, as introduced, would result in increased revenue to the agency's fee funds of approximately \$176,350 in FY 2018 and beyond. Such an increase would allow the AFI program to continue its operations within its budgeted SGF expenditures. The fiscal note indicates no increase in expenditures is expected, since the bill does not increase the duties of the AFI program. An updated fiscal note on the bill,

as amended by the House Committee, was not immediately available.