

Senate Substitute for HOUSE BILL No. 2596

AN ACT concerning agriculture; relating to animal health; amending K.S.A. 47-120, 47-121, 47-122, 47-237, 47-238, 47-419, 47-422, 47-424, 47-1001, 47-1002, 47-1005, 47-1010, 47-1102, 47-1213, 47-1217, 47-1219, 47-1301, 47-1305, 47-1306, 47-1509, 47-1701, 47-1710, 47-1711, 47-1723, 47-1725, 47-1726, 47-1727, 47-1801, 47-1804, 47-1807 and 47-2306 and K.S.A. 2011 Supp. 47-1008, 47-1302, 47-1706, 47-1707, 47-1708, 47-1709, 47-1809, 47-1825 and 47-1826 and repealing the existing sections; also repealing K.S.A. 47-619, 47-621, 47-636, 47-637, 47-638, 47-639, 47-641, 47-642, 47-643, 47-644, 47-647, 47-648, 47-649, 47-650, 47-651, 47-652, 47-653, 47-653d, 47-653e, 47-653f, 47-653g, 47-653h, 47-654, 47-655, 47-656, 47-666, 47-667, 47-668, 47-669, 47-670, 47-671, 47-921, 47-922, 47-923 and 47-1005b and K.S.A. 2011 Supp. 47-672 and 47-1307.

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

New Section 1. In addition to the remedies provided under K.S.A. 47-1001 *et seq.*, and amendments thereto, the commissioner is hereby authorized to apply to the district court for an injunction restraining any person from violating any provision of K.S.A. 47-1001 *et seq.*, and amendments thereto. Such court, upon a showing of cause therefore, shall have jurisdiction to grant such injunction irrespective of whether or not there exists an adequate remedy at law.

New Sec. 2. For purposes of administrative proceedings of the division of animal health of the Kansas department of agriculture, “agency head” means the Kansas secretary of agriculture or the animal health commissioner of the Kansas department of agriculture, when acting on behalf of the secretary.

Sec. 3. K.S.A. 47-120 is hereby amended to read as follows: 47-120. (a) Nothing herein contained shall be so construed as to prevent drovers or other persons from driving ~~swine~~ livestock from one place to another along any public highway, the owner or owners being responsible for all damages that any person or persons may sustain in consequence of the driving of such ~~swine~~ livestock.

(b) *For the purposes of K.S.A. 47-120 through 47-122, and amendments thereto, “livestock” shall mean any cattle, bison, swine, sheep, goats, horses, mules, domesticated deer, camelids, all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas, and any other animal as deemed necessary by the animal health commissioner established through rules and regulations.*

Sec. 4. K.S.A. 47-121 is hereby amended to read as follows: 47-121. That any person or persons other than the owner or ~~his~~ such owner’s authorized agent who shall willfully drive or cause to be driven any ~~horses, cattle, mules, sheep or swine or other domestic animals~~ livestock further from their usual and customary range than the nearest corral obtainable without the written consent of the owner, or who shall neglect to return such ~~horses, mules, cattle, sheep or swine or other domestic animals~~ livestock immediately to their accustomed range, shall in either case be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding ninety days, or by a fine of not less than ~~twenty-five dollars~~ \$100 nor more than ~~one hundred dollars~~ \$1,000, or by both such fine and imprisonment, in the discretion of the court.

Sec. 5. K.S.A. 47-122 is hereby amended to read as follows: 47-122. It shall be unlawful for any ~~domestic animal, other than dogs and cats,~~ livestock to run at large.

Sec. 6. K.S.A. 47-237 is hereby amended to read as follows: 47-237. If any person shall unlawfully take up any stray or fails to comply with the provisions of this act or uses or works such stray before giving notice or shall drive the same on any premises for the purpose of unlawfully taking up the same, or shall keep the same out of the county when taken up more than five days at one time before sale, ~~he~~ such person shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding ~~one hundred dollars~~ \$500, or by imprisonment for not exceeding ~~thirty~~ 30 days, or by both such fine and imprisonment.

Sec. 7. K.S.A. 47-238 is hereby amended to read as follows: 47-238. After the sheriff has received notice of the taking up of any stray, and the ownership not having been established, the sheriff shall advertise such stray in the area where taken up, and shall cause the stray ~~animal~~ to be delivered to a public livestock market ~~or to a terminal livestock market,~~ and shall sell or cause ~~said~~ such stray ~~animal~~ to be sold at such a market, to the highest bidder for cash. ~~Provided,~~ Such advertisement shall be at least seven ~~(7)~~ days before sale date, and such sale date shall be at least

~~twenty-one (21)-21~~ days after *the* date the stray was reported to the sheriff.

Sec. 8. K.S.A. 47-419 is hereby amended to read as follows: 47-419. When any brand is recorded, as provided herein, the owner thereof shall be entitled to one certified copy of the record of such brand from the commissioner. Additional certified copies of such record may be obtained by anyone upon the payment of a fee in an amount fixed by the commissioner ~~and approved by the director of accounts and reports under K.S.A. 45-204 for each copy.~~

Sec. 9. K.S.A. 47-422 is hereby amended to read as follows: 47-422. (a) Any brand ~~recorded with the Kansas animal health board registered with the animal health commissioner of the Kansas department of agriculture~~ in compliance with the requirements of this act shall be the property of the person causing such record to be made ~~and~~. *Such brand* shall be subject to sale, assignment, transfer, devise, and descent as other personal property. Instruments of writing evidencing the sale, assignment or transfer of such brand shall be recorded by the ~~livestock animal health commissioner, and~~. The fee for recording such instruments of writing shall be \$15. Such instruments shall have the same force and effect as recorded instruments affecting real estate, ~~and~~. A certified copy of the record of any such instrument may be introduced in evidence the same as is now provided for certified copies of instruments affecting real estate. Any brand recorded with the ~~Kansas animal health department-Kansas department of agriculture division of animal health~~ shall not be used by any person other than the recorded owner.

(b) Any person violating any provision of this section shall be guilty of a class C misdemeanor.

Sec. 10. K.S.A. 47-424 is hereby amended to read as follows: 47-424. The commissioner shall from time to time cause to be published in book form *or produce in electronic format*, a list of all brands and marks on record at the time of such publication. Such lists may be supplemented from time to time. Such publication *or production* shall contain a facsimile of all brands recorded, together with the owner's name and post-office address. ~~Said~~ *Such* records shall be arranged in convenient form for reference. The commissioner shall send, to the sheriff of each county, one copy of ~~said~~ *such* brand book and supplement thereto *or electronically formatted copy thereof*, which shall be kept as a matter of public record. The commissioner may exchange brand books and supplements thereto *or electronically formatted copies thereof* with livestock brand commissioners and directors of other states, and with the executive officer of a statewide organization of any other state which is charged with administration of brand laws of such state. The commissioner may make other distribution of brand books and supplements *or electronically formatted copies thereof* without charge, to Kansas licensed veterinarians and licensed public livestock market operators, when ~~he~~ *the commissioner* deems such distribution desirable and an aid to the effective administration of the brand laws of this state. ~~Said~~ *Such* books *or electronically formatted copies of the production* may be sold to the general public at a price to be determined by the commissioner which shall be based on the cost of printing *or storing*, preparation and postage.

Sec. 11. K.S.A. 47-1001 is hereby amended to read as follows: 47-1001. As used in this act, except where the context clearly indicates a different meaning:

(a) "Commissioner" means the ~~livestock animal health commissioner of the state of Kansas~~ *department of agriculture*.

(b) "Livestock" means and includes cattle, *bison*, swine, sheep, goats, horses, mules, domesticated deer, *camelids*, *domestic poultry*, *domestic waterfowl*, all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas, and any other animal as deemed necessary by the commissioner established through rules and regulations.

(c) "Person" means and includes any individual, partnership, corporation or association.

(d) "Producer" means any person engaged in the business of breeding, grazing or feeding livestock.

(e) "Consignor" means any person who ships or delivers to any public

livestock market livestock for handling, sale or resale at a public livestock market.

(f) “Public livestock market” means any place, establishment or facility commonly known as a “livestock market,” “livestock auction market,” “sales ring,” “stockyard,” “community sale” as such term is used in article 10 of chapter 47 of the Kansas Statutes Annotated, *and amendments thereto*, which includes any business conducted or operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold or kept for sale or shipment except that this term shall not apply to any livestock market where federal veterinary inspection is regularly maintained.

(g) “Public livestock market operator” means any person who, in this state, receives on consignment, or solicits from the producer or consignor thereof, or holds in trust or custody for another, any livestock for sale or exchange, on behalf of such producer or consignor at a public livestock market, or sells, or offer for sale, at a public livestock market, for the account of the producer or consignor thereof, any livestock or directly or indirectly owns, conducts or operates a public livestock market. The term “public livestock market operator” shall not be construed to include any packer or agent of a packer who receives or purchases livestock for prompt slaughter.

(h) “Packer” means any person engaged in the business of buying livestock for purposes of slaughter, or of manufacturing or preparing meats or meat food products for sale or shipment, or of manufacturing or preparing livestock products for sale or shipment, or of marketing meats, meat food products, livestock products, dairy products, poultry or poultry products.

(i) “Board” means any three members of the Kansas animal health board designated by the chairperson of the Kansas animal health board for each particular hearing. The chairperson may be included in such designation.

(j) “Dealer” as used in article 10 of chapter 47 of the Kansas Statutes Annotated, ~~to which this act is amendatory and supplemental, and amendments thereto~~, shall have the same meaning as the term “public livestock market operator.”

(k) “Domesticated deer” means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

(l) “Occasional livestock sale” means livestock auctions or sales, that receive on consignment, or solicits from the producer or consignor thereof, or holds in trust or custody for another, any livestock for sale or exchange, on behalf of such producer or consignor at such auction or sale, or sells, or offers for sale, at such auction or sale, for the account of the producer or consignor thereof, any livestock or directly or indirectly owns, conducts or operates such auction or sale and such auctions or sales are held 12 or less times per year.

(m) “Electronic auction” means a live audio-visual broadcast of an actual auction where livestock are offered for sale and shall include auctions conducted by satellite communications and over the internet.

Sec. 12. K.S.A. 47-1002 is hereby amended to read as follows: 47-1002. (a) ~~The required bond required by K.S.A. 47-1001a, and amendments thereto~~, shall be in the minimum amount of ~~twenty thousand dollars (\$20,000)~~ \$20,000 for each license year or fraction thereof, but may be a continuous bond. Each license year shall expire on June 30. ~~Said~~ Such bond shall be conditioned upon compliance by the principal with the provisions of this act and upon the prompt, faithful and honest handling by the principal of such livestock and the prompt remittance of the proceeds from the sale, purchase or exchange thereof to the lawful owner of such livestock. ~~Said~~ Such bond shall be to the state for the use and benefit of such person or persons as may suffer loss or damage by breach of the condition thereof. ~~Provided, That where the~~ *If the* commissioner is the trustee and custodian of a surety bond *or bond equivalent* wherein ~~said~~ such public livestock market operator is the principal and is operating under the provisions of the packers and stockyards act of 1921 of the

United States, the commissioner may accept such bond or bond equivalent in lieu of the one herein otherwise required.

(b) For the purposes of this section, a bond equivalent shall be in one of the following forms:

(1) A trust fund agreement governing funds actually deposited or invested in fully negotiable obligations of the United States of federally-insured deposits or accounts in the name of and readily convertible to currency by a trustee; or

(2) a trust agreement governing funds which may be drawn by a trustee, under one or more irrevocable, transferable, standby letters of credit, issued by a federally-insured bank or institution and physically received and retained by the trustee.

(c) Any producer, consignor or purchaser of livestock claiming to be injured by the breach of any public livestock market operator of any of the terms and provisions of ~~said~~ such bond may bring action thereon in district court to recover the damages caused by such breach.

(d) When ~~said~~ such bond shall have been given, the commissioner shall thereupon issue to such applicant a license entitling the applicant, if a public livestock market operator, to conduct the business described in the application at the place named therein for a period expiring on June 30 following date of issuance, and for such additional license year periods as the public livestock market operator may be entitled to by reason of ~~his~~ the operator's having paid the annual application fee and the proof of ~~his~~ the operator's having paid the annual premium upon such continuous bond, or until such license shall have been revoked for cause.

Sec. 13. K.S.A. 47-1005 is hereby amended to read as follows: 47-1005. (a) After notice and an opportunity for a hearing, conducted in accordance with the provisions of the Kansas administrative procedure act, the commissioner may refuse to grant a license, or suspend or revoke a license, upon a finding of the existence of any of the following facts:

~~(a)~~(1) That any provision of this act, order or rule and regulation lawfully promulgated thereunder by the commissioner has been violated by the licensee;

~~(b)~~(2) that the licensee has knowingly received on consignment or sold at a public livestock market any stolen livestock, or mortgaged livestock without authority of the lawful owner or mortgagee;

~~(c)~~(3) that the licensee was guilty of fraud or deception in the procurement of such license;

~~(d)~~(4) that the licensee has violated the laws of the state, or official regulations governing the interstate or intrastate movement, shipment or transportation of any livestock;

~~(e)~~(5) that the licensee fails to practice measures of sanitation, disinfection and inspection, as prescribed by law or by the commissioner, of premises used for yarding, stabling, housing or holding of livestock; ~~or~~

~~(f)~~(6) that there has been failure to keep records required by the commissioner or a refusal on the part of the licensee to produce records of transactions in the carrying on of the business for which such license is granted, or that the licensee selling livestock by weight fails or refuses to have livestock handled by such licensee weighed on scales that are regularly inspected and tested for accuracy by duly authorized public authority or authorities;

(7) that there has been failure to make timely remittances of fees due under the act to the commissioner; or

(8) that the licensee has failed to properly maintain custodial accounts or bonds.

(b) Notwithstanding the provisions of subsection (a), nothing shall preclude the commissioner from issuing an emergency order in accordance with K.S.A. 77-536, and amendments thereto, to suspend the license of a public livestock market for the following reasons:

(1) If the bond or bond equivalent as described in K.S.A. 47-1002, and amendments thereto, for a livestock market operator expires or is terminated and no valid replacement bond or bond equivalent has been filed with the commissioner at the time expiration of such surety occurs; or

(2) if a shortage exists in any of the licensee's custodial accounts which the commissioner determines to endanger the public welfare.

Sec. 14. K.S.A. 2011 Supp. 47-1008 is hereby amended to read as

follows: 47-1008. (a) Livestock shall not be offered for sale or sold at any licensed public livestock market if such livestock:

- (1) Is infected with a disease that permanently renders the livestock unfit for human consumption;
- (2) has severe neoplasia;
- (3) has severe actinomycosis;
- (4) is unable to rise to its feet by itself; or
- (5) has an obviously fractured long bone or other fractures or dislocation of a joint that renders the livestock unable to bear weight on the affected limb without that limb collapsing.

(b) If, in the judgment of an accredited veterinarian, the livestock consigned and delivered on the premises of any licensed public livestock market is in any of the conditions described in subsection (a), such veterinarian shall euthanize humanely the livestock or direct the consignor to immediately remove the livestock from the premises of the public livestock market. All expenses incurred for euthanasia and disposal of the livestock under the provisions of this subsection shall be the responsibility of the consignor. Collection of expenses shall not be the responsibility of the consignee.

(c) All livestock consigned and delivered on the premises of any licensed public livestock market, before being offered for sale, shall be inspected by a veterinarian authorized by the commissioner who shall visually examine or test, or both, each animal consigned to such market, for the purpose of determining its condition of health and freedom of clinical signs of infectious or contagious animal diseases that are determined to be reportable by the ~~livestock~~ *animal health* commissioner. Such regulatory veterinary services shall be contracted for by the ~~livestock~~ *animal health* commissioner, who shall select an accredited veterinarian for each public livestock market. The public livestock market operator, for each public livestock market, shall submit to the ~~livestock~~ *animal health* commissioner a list of accredited veterinarians to be considered for the ~~position or positions~~. Such veterinarian shall be authorized to make all required examinations and tests, and to issue certificates of inspection at the public livestock market where such veterinarian serves. All livestock sold, resold, exchanged or transferred, or offered for sale or exchange at a livestock market shall be treated as may be necessary to prevent the spread of contagious or infectious diseases. A certificate of inspection, on a form to be approved by the commissioner, shall be issued to the purchaser by the inspector. For the visual inspection of livestock offered for sale, there shall be collected by the market operator from the consignor a fee which shall be determined by negotiation between the market operator and the market veterinarian but shall not be less than \$.07 per head, except that no fee for inspection shall be collected unless the inspection actually has been made. If the charges per head collected on all livestock inspected at a livestock market on any sales day do not amount to a minimum per diem of \$40 or any amount greater than \$40 negotiated by the operator, the market operator shall be required to supply sufficient funds to provide such amount. Any amount lesser or greater than the \$40 amount specified, shall be determined by negotiation between the market operator and the market veterinarian. A copy of any agreement or contract shall be on file with the commissioner. Payments for veterinary services rendered under a contract as provided in this section shall be paid from the veterinary inspection fee fund, and for such services rendered prior to the end of a fiscal year, payment may be made within 90 days after the end of the fiscal year.

(d) Livestock market operators shall pay amounts received and amounts due under this section to the ~~livestock~~ *animal health* commissioner. The commissioner shall remit all such amounts received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the veterinary inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner or by a person or persons designated by such commissioner.

(e) The ~~livestock~~ *animal health* commissioner shall promulgate rules and regulations as may be necessary to carry out the purposes of this

section, including, but not limited to, rules and regulations designating any disease as a disease that renders livestock or the carcasses thereof permanently unfit for human consumption. ~~The livestock commissioner shall promulgate all such rules and regulations in accordance with existing antemortem inspection regulations promulgated by the United States department of agriculture food safety and inspection service, as in effect on July 1, 1997.~~

(f) All livestock sold by a licensed electronic auction, before being delivered to an out-of-state buyer, shall have a health certificate issued by a licensed, accredited veterinarian. Kansas buyers shall be furnished a health certificate upon request.

Sec. 15. K.S.A. 47-1010 is hereby amended to read as follows: 47-1010. (a) *In addition to the penalties provided in subsection (b), any person shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ~~two hundred dollars (\$200)~~ \$100 or more than ~~five hundred dollars (\$500)~~ \$1,000, who commits any of the following acts:*

~~(a)~~(1) Assumes or attempts to act as a public livestock market operator without a license;

~~(b)~~(2) imposes false charges for handling or services in connection with livestock handled, sold or offered for sale at a public livestock market;

~~(c)~~(3) fails to account promptly, correctly and fully for any livestock sold or handled by him and properly to make settlements therefor;

~~(d)~~(4) makes false or misleading statements as to market conditions at any public livestock market conducted or operated by ~~him or it, the person making such statement or for whom such individual is in the employment of;~~

~~(e)~~(5) makes any false or misleading statements as to the health or physical condition of the livestock or quantity of livestock shipped or sold;

or

~~(f)~~(6) fails to comply in any respect with this act and any and all lawful rules, regulations and orders of the commissioner issued and promulgated hereunder.

(b) *The commissioner, upon finding that a person has violated any provision of K.S.A. 47-1001 et seq., and amendments thereto, or any rule and regulation adopted thereunder, after notice and opportunity for a hearing are given in accordance with the provisions of the Kansas administrative procedure act, may impose a civil penalty in an amount not more than \$5,000 per violation. For the purposes of this section, violations shall include, but not be limited to, acts recognized in subsection (a) and acts or omissions which are grounds for administrative action pursuant to K.S.A. 47-1005, and amendments thereto.*

(c) *In the case of a continuing violation, every day such violation continues shall be deemed a separate violation for the purposes of assessing civil penalties therefor. Such civil penalty may be assessed in addition to any other penalty provided by law. The recipient of a civil penalty may appeal the order to the district court in the manner provided by the Kansas judicial review act.*

(d) *Any penalty recovered pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.*

Sec. 16. K.S.A. 47-1102 is hereby amended to read as follows: 47-1102. (a) ~~Every~~ Any person, firm or corporation violating or failing to comply with any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than ~~five hundred dollars or~~ \$1,000, by imprisonment in the county jail for not less than ~~sixty~~ 60 days nor more than six months or by both such fine and imprisonment.

Sec. 17. K.S.A. 47-1213 is hereby amended to read as follows: 47-1213. The commissioner, *after providing notice and opportunity for a hearing in accordance with the Kansas administrative procedure act*, shall have power to suspend or revoke any license or permit issued under this act for the failure or refusal of any licensee or permit holder to obey and comply with the provisions of this act and all rules and regulations au-

thorized and adopted thereunder, ~~except that before any such license or permit is suspended or revoked the licensee or permit holder shall be notified of the alleged violations and the time and place of hearing thereon, as fixed by the commissioner, and a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.~~

Sec. 18. K.S.A. 47-1217 is hereby amended to read as follows: 47-1217. The willful violation of any of the provisions of this act, or the willful failure to comply with any of the provisions of this act, or any of the rules and regulations adopted thereunder, is hereby made a misdemeanor, and any person upon conviction thereof shall be punished by a fine of not less than ~~twenty-five dollars~~ \$25 nor more than ~~five hundred dollars~~ \$500. It shall be the duty of the attorney general and the various county attorneys, to file suit in a court of competent jurisdiction to enjoin any violation of this act or any rule ~~or~~ and regulation authorized and adopted under the provisions of this act.

Sec. 19. K.S.A. 47-1219 is hereby amended to read as follows: 47-1219. (a) Any person or persons who shall put any dead animals, carcasses of such animals or domestic fowl, or any part thereof, into any well, spring, brook, branch, river, creek, pond, road, street, alley, ~~lane, lot, field, meadow or common lane other than the person's own private driveway, lot not owned or leased by such person, field not owned or leased by such person, meadow not owned or leased by such person or commonly-owned or public property~~ shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding ~~\$100~~ \$500.

(b) Any owner or owners of any dead animals, carcasses of such animals or domestic fowl, or any part thereof, who shall knowingly permit the same to remain in any well, spring, brook, branch, river, creek, pond, road, street, alley, ~~lane, lot, field, meadow or common lane other than the person's own private driveway, lot not owned or leased by such person, field not owned or leased by such person, meadow not owned or leased by such person or commonly-owned or public property~~ to the injury of the health or to the annoyance of or damage to the citizens of the state or any of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding ~~\$100~~ \$500. Every 24 hours the owners shall permit the same to remain thereafter shall be deemed an additional offense.

(c) Persons disposing of dead animals shall do so in one of the following ways: (1) Burial; (2) incineration; (3) delivery or unloading of the carcasses of dead animals or packing house refuse at a disposal plant, substation, rendering plant or place of transfer licensed by the commissioner; ~~(4) composting;~~ ~~(4)(5)~~ in accordance with rules and regulations adopted pursuant to K.S.A. ~~2000 Supp.~~ 65-1,199, and amendments thereto.

Sec. 20. K.S.A. 47-1301 is hereby amended to read as follows: 47-1301. As used in ~~this act~~ *article 13 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto*, "garbage" means all waste material derived in whole or in part from the meat of any animal, including fish and poultry, ~~or other waste animal material~~, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking or consumption of food. *For the purposes of article 13 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, "garbage" shall not be deemed to include pasteurized dairy products.*

Sec. 21. K.S.A. 2011 Supp. 47-1302 is hereby amended to read as follows: 47-1302. (a) Except as provided in subsection (b) ~~or (c)~~, it shall be unlawful for any person, firm, partnership or corporation to feed garbage to animals.

~~(b) Any person, firm, partnership or corporation who on the effective date of this act is registered as a garbage feeding operator may continue to feed garbage to animals through October 31, 2001, if such garbage has been heated to a temperature of 212 degrees Fahrenheit (boiling point) for at least 30 minutes as provided by rules and regulations promulgated by the state livestock commissioner.~~

~~(c)(b)~~ Nothing in this section shall prohibit an individual from feeding such individual's own animals only the garbage obtained from such individual's own household.

Sec. 22. K.S.A. 47-1305 is hereby amended to read as follows: 47-1305. Any person, firm, partnership, corporation, city or official of any corporation or city, violating the provisions of this act or of any rule or regulation promulgated pursuant thereto shall, upon conviction thereof, be fined not less than ~~one hundred dollars (\$100)~~ \$100 nor more than ~~five hundred dollars (\$500)~~ \$500. Each day the provisions of this act or any rule ~~or~~ and regulation made pursuant thereto is violated shall be a separate offense.

Sec. 23. K.S.A. 47-1306 is hereby amended to read as follows: 47-1306. It shall be unlawful to move any garbage or the refuse of any locker plant or slaughterhouse upon any public street, alley, or highway, ~~without compliance with the following: (1) Such~~ unless such garbage and such refuse shall be contained in a liquid-tight barrel or container, and so covered as to prevent spilling, or access to flies or insects, ~~(2) shall be moved from point of origin to a registered garbage feeding establishment. Provided, Nothing in article 12 of chapter 47 of the Kansas Statutes Annotated, shall prohibit such movement.~~

Sec. 24. K.S.A. 47-1509 is hereby amended to read as follows: 47-1509. Any person violating any of the provisions of this act, or any regulation promulgated by the commissioner, thereunder, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding ~~one hundred dollars (\$100)~~ \$500. ~~Provided, That~~ Each day upon which a violation shall be committed, or shall be permitted to continue, shall be deemed to be a separate offense.

Sec. 25. K.S.A. 47-1701 is hereby amended to read as follows: 47-1701. As used in the Kansas pet animal act, unless the context otherwise requires:

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

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

(c) “Ambient temperature” means the temperature surrounding the animal.

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

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

(e) “Animal breeder” means any person who operates *an* animal breeder premises.

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

(g) “Animal shelter” or “pound” means a facility which 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.

(h) “Cat” means an animal which is wholly or in part of the species *Felis domesticus*.

(i) “Commissioner” means the ~~livestock~~ *animal health* commissioner ~~appointed by~~ of the Kansas ~~animal health board~~ *department of agriculture*.

(j) “Dog” means any animal which is wholly or in part of the species *Canis familiaris* ~~but does not include any greyhound, as defined by K.S.A. 74-8802 and amendments thereto.~~

(k) “Animal control officer” means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law

or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, dog warden, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(l) “Euthanasia” means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718, and amendments thereto.

(m) “Hobby breeder premises” means any premises where all or part of ~~3, 4 or 5~~ *three, four or five* litters of dogs or cats, or both, are produced for sale or sold, offered or maintained for sale *per license year*. This provision applies only if the total number of dogs or cats, or both, sold, offered or maintained for sale is less than 30 individual animals.

(n) “Hobby breeder” means any person who operates a hobby breeder premises.

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

(p) ~~“Kennel-Boarding or training kennel operator”~~ means any person who operates an establishment where four or more dogs or cats, or both, are maintained in any one week *during the license year* for boarding, training or similar purposes for a fee or compensation.

(q) ~~“Kennel-Boarding or training kennel operator premises”~~ means the facility of a *boarding or training* kennel operator.

(r) “License year” or “permit year” means the 12-month period ending on June 30.

(s) “Person” means any individual, association, partnership, corporation or other entity.

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

(A) Any dogs or cats, or both; or (B) any other animals except those which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.

(2) Pet shop does not include: (A) Any pound or animal shelter; (B) any premises where only fish are sold, or offered or maintained for sale; or (C) any animal distributor premises, hobby breeder premises, retail breeder premises or animal breeder premises.

(3) Nothing in this section prohibits inspection of those premises which sell only fish to verify that only fish are being sold.

(u) “Pet shop operator” means any person who operates a pet shop.

(v) “Primary enclosure” means any structure used or designed for use to restrict any animal to a limited amount of space, such as a room, pen, cage, compartment or hutch.

(w) “Research facility” means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.

(x) “Sale,” “sell” and “sold” include transfers by sale or exchange. Maintaining animals for sale is presumed whenever 20 or more dogs or cats, or both, are maintained by any person.

(y) “Sanitize” means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

(z) “Animal distributor” means any person who operates an animal distributor premises.

(aa) “Animal distributor premises” means the premises of any person engaged in the business of buying for resale dogs or cats, or both, as a principal or agent, or who holds such distributor’s self out to be so engaged.

(bb) “Out-of-state distributor” means any person residing in a state other than Kansas, who is engaged in the business of buying for resale dogs or cats, or both, within the state of Kansas, as a principal or agent.

(cc) “Food animals” means rodents, rabbits, reptiles, fish or amphibians that are sold or offered or maintained for sale for the sole purpose of being consumed as food by other animals.

(dd) ~~(1)~~ “Adequate veterinary medical care” means:

~~(A)~~ (1) A documented program of disease control and prevention, euthanasia and routine veterinary care shall be established and maintained under the supervision of a licensed veterinarian, on a form provided by

the commissioner, and shall include a documented on-site visit to the premises by the veterinarian at least once a year; ~~and~~

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

(3) *all documentation required by subsections (dd)(1) and (dd)(2) shall be made available to the commissioner or the commissioner's authorized representative for inspection or copying upon request and shall be maintained for three years after the effective date of the program or the administration of such veterinary care.*

~~(2)(4)~~ As used in the Kansas pet animal act, "adequate veterinary medical care" shall not apply to United States department of agriculture licensed animal breeders or animal distributors.

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

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

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

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

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

Sec. 26. K.S.A. 2011 Supp. 47-1706 is hereby amended to read as follows: 47-1706. (a) The commissioner may refuse to issue or renew or may suspend or revoke any license or permit 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 permit, or in the application for any renewal of a license or permit;

(2) willful disregard of any provision of the Kansas pet animal 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 pet animal act or any rule and regulation adopted hereunder;

(3) permitting any license or permit issued hereunder to be used by an unlicensed or unpermitted person or transferred to unlicensed or unpermitted premises;

(4) the conviction of any crime relating to the theft of animals ~~or a first conviction of 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 permittee;

(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 permittee's premises are not consistent with the Kansas pet animal act or the rules and regulations adopted hereunder;

(10) *failure to provide adequate veterinary medical care to the animals in such licensee or permittee's custody or care; or*

(11) *failure to maintain or provide documentation of the provision of adequate veterinary medical care, as required in K.S.A. 47-1701(dd), and amendments thereto, to animals in such licensee or permittee's custody or care when access to such is requested by the commissioner or the commissioner's authorized representatives.*

(b) The commissioner shall refuse to issue or renew and shall suspend or revoke any license or permit required under K.S.A. 47-1701 *et seq.*, and amendments thereto, for ~~the second or subsequent~~ a conviction of cruelty to animals, K.S.A. 21-4310, prior to its repeal, or subsections (a)(1) through (a)(5) of K.S.A. 2011 Supp. 21-6412, and amendments thereto.

(c) Any refusal to issue or renew a license or permit, and any suspension or revocation of a license or permit, under this section shall be *issued only after notice and opportunity for a hearing are provided in*

accordance with the provisions of the Kansas administrative procedure act and shall be subject to review in accordance with the Kansas judicial review act.

(d) *Notwithstanding subsection (c), nothing shall preclude the commissioner from issuing a quarantine order in accordance with K.S.A. 77-536, and amendments thereto, on any premises regulated under this act wherein the animals are found to be infected with a contagious or zoonotic disease which may infect animals or humans that may come into contact with or be exposed to such animals.*

~~(d)~~(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. Except as provided by K.S.A. 2011 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.

Sec. 27. K.S.A. 2011 Supp. 47-1707 is hereby amended to read as follows: 47-1707. (a) In addition to or in lieu of any other civil or criminal penalty provided by law, the commissioner, upon a finding that a person has violated or failed to comply with any provision of the Kansas pet animal act or any rule and regulation adopted hereunder, may impose on such person a civil ~~fine~~ *penalty* not exceeding \$1,000 for each violation or ~~requirement~~ *require such person* to attend an educational course regarding animals and their care and treatment. If the commissioner imposes the educational course, such person may choose either the ~~fine~~ *penalty* or the educational course. If such person chooses the ~~fine~~ *penalty*, the commissioner shall establish the amount pursuant to the ~~fine~~ *penalty* provisions of this section. The educational course shall be administered by the commissioner in consultation with Kansas state university college of veterinary medicine.

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

(c) Whenever the commissioner has reasonable grounds to believe that a person or premises required to be licensed or permitted under the Kansas pet animal act has failed to comply with or has violated any provision of the Kansas pet animal act or any rule and regulation adopted hereunder and that the health, safety or welfare of animals in such person's possession, custody or care is endangered thereby, the commissioner shall seize and impound such animals using emergency adjudicative proceedings in accordance with the Kansas administrative procedure act. Except as provided by K.S.A. 2011 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 is found to be in violation of the Kansas pet animal act or any rules and regulations adopted hereunder. Such funds shall be paid to the commissioner for reimbursement of care and services provided during seizure and impoundment. If such person is not found to be in violation of the Kansas pet animal act or any rules and regulations adopted hereunder, the commissioner shall pay the costs of care and services provided during seizure and impoundment.

Sec. 28. K.S.A. 2011 Supp. 47-1708 is hereby amended to read as follows: 47-1708. Any action of the commissioner pursuant to K.S.A. ~~47-1705 or 47-1706 or 47-1707~~, and amendments thereto, is subject to review in accordance with the Kansas judicial review act.

Sec. 29. K.S.A. 2011 Supp. 47-1709 is hereby amended to read as follows: 47-1709. (a) The commissioner or the commissioner's authorized, trained representatives shall make an inspection of the premises for which an application for an original license or permit is made under K.S.A. 47-1701 *et seq.*, and amendments thereto, before issuance of such license or permit. *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 be given to any person prior to inspection.

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

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

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

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

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

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

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

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

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

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

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

Sec. 30. K.S.A. 47-1710 is hereby amended to read as follows: 47-1710. (a) An animal shall not be disposed of by an owner or operator of a pound or of an animal shelter as a pound until after expiration of a minimum of three full *business* days of custody during which the public has clear access to inspect and recover the animal through time periods ordinarily accepted as usual business hours. During such time of custody, any owner or operator of such facility shall attempt to notify the owner or custodian of any animal maintained or impounded by such facility if such owner or custodian is known or reasonably ascertainable. Such an animal may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such animal was a gift animal to an animal shelter, or euthanized by a duly incorporated humane society or by a licensed veterinarian if it appears to an officer of such humane society or to such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose.

(b) After the expiration of the holding period established in subsection (a), the governing body of a political subdivision regulating the operation of a pound shall have ownership of such animal and shall determine the method of disposition of any animal. Any pound releasing live animals to prospective owners shall comply with the provisions established in K.S.A. 47-1731, and amendments thereto. Any *such* proceeds derived from the sale or other disposition of such animals shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

(c) After the expiration of the holding period established in subsection (a), the board of directors of any humane society operating an animal shelter as a pound, shall have ownership of such animal and shall determine the method of disposition of any animal. Any animal shelter releasing live animals to prospective owners shall comply with the provisions established in K.S.A. 47-1731, and amendments thereto. Any *such* proceeds derived from such sale or disposition shall be paid directly to the treasurer of the humane society and no part of such proceeds shall accrue to any individual.

Sec. 31. K.S.A. 47-1711 is hereby amended to read as follows: 47-1711. An animal control officer shall not be granted an animal distributor's, *animal breeder's*, retail breeder's, hobby breeder's or a pet shop operator's license. Each application for any such license shall include a statement that neither the applicant nor any of the applicant's employees is an animal control officer. An animal control officer, upon taking custody of any animal in the course of such officer's official duties, shall immediately make a record which shall include the color, breed, sex, approximate weight and other description of the animal, the reason for seizure, the location of seizure, the owner's name and address, if known, the animal license number, and any other identification number. Complete information relating to the disposition of the animal shall be shown on the record, ~~this~~ and shall be added immediately following the disposition of the animal. *Such records shall be made available to the commissioner or the commissioner's authorized representative upon request.*

Sec. 32. K.S.A. 47-1723 is hereby amended to read as follows: 47-1723. (a) It shall be unlawful for any person, except a licensed veterinarian, to act as or be a *boarding or training* kennel operator unless such person has obtained from the commissioner a *boarding or training* kennel operator license for each premises operated by such person. Application

for such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

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

Sec. 33. K.S.A. 47-1725 is hereby amended to read as follows: 47-1725. (a) There is hereby created the Kansas pet animal advisory board, consisting of 10 members. Members shall be appointed by the governor as follows:

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

(b) ~~Of the members first appointed to the board, the governor shall designate three whose terms shall expire June 30, 1992, three whose terms shall expire June 30, 1993, and three whose terms shall expire June 30, 1994. After the expiration of such terms, Each member shall be appointed for a term of three years and until a successor is appointed and qualified.~~

(c) A vacancy on the board of a member shall be filled 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 ~~Kansas livestock~~ *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) Upon the effective date of this act, the governor shall appoint a licensed kennel operator. When the current board members' terms expire, the governor shall appoint persons or representatives in accordance with this section.~~

Sec. 34. K.S.A. 47-1726 is hereby amended to read as follows: 47-1726. K.S.A. 47-1701 through 47-1721, K.S.A. 47-1723 through 47-1727, 47-1731, and K.S.A. 47-1732 through 47-1736, and amendments thereto, shall be known and may be cited as the Kansas pet animal act. This act shall license, permit and regulate the conditions of certain premises and facilities within the state of Kansas where animals are maintained, sold or offered or maintained for sale. *The provisions of this act shall not apply to any farm, kennel or other premises registered with and inspected by the national greyhound association which is used solely for the purposes of breeding, maintaining, training or selling greyhound dogs, as greyhound is defined in K.S.A. 74-8802, and amendments thereto. The commissioner shall have the authority to enter into agreements with the national greyhound association pertaining to the aforementioned greyhound premises. Notwithstanding any other provisions of this section, any agreements between the commissioner and the national greyhound association*

may contain terms allowing the commissioner to access records, complete inspections of such premises and other related matters.

Sec. 35. K.S.A. 47-1727 is hereby amended to read as follows: 47-1727. Notwithstanding the existence or pursuit of any other remedy, when it appears to the commissioner, ~~as head of the licensing and permitting agency,~~ that any person is violating any provisions of the Kansas pet animal act, the commissioner may ~~in that capacity~~ bring an action in a court of competent jurisdiction or other process against such person to enjoin, restrain or prevent such person from continuing operation in violation of the Kansas pet animal act without regard to whether administrative proceedings have been or may be instituted or whether criminal proceedings may be or have been instituted.

Sec. 36. K.S.A. 47-1801 is hereby amended to read as follows: 47-1801. As used in ~~this act~~ *K.S.A. 47-1801 through 47-1803, and amendments thereto*, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this section:

(a) “Livestock” means cattle, hogs, sheep, *goats, bison, camelids*, all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas or domesticated deer;

(b) “slaughter” means killing livestock with the intent to process and distribute the meat and by-products of such livestock, regardless of the period of time elapsing between the purchase and the killing of such livestock;

(c) “person” means any individual, firm, partnership, corporation or other organization or business entity;

(d) “payment by check” means the actual delivery of the check to the seller or the seller’s representative at the location where the transfer of ownership is accomplished. In the case of “grade and yield” selling, “payment by check” means making the check available at the packing plant, subject to the instructions of the seller or the seller’s representative;

(e) “wire transfer” means any telephonic, telegraphic, electronic or similar communication between the bank of the purchaser and the bank of the seller which results in the transfer of funds or credits of the purchaser to an account of the seller.

(f) “Domesticated deer” means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

Sec. 37. K.S.A. 47-1804 is hereby amended to read as follows: 47-1804. As used in ~~this act~~ *K.S.A. 47-1804 through 47-1808, and amendments thereto*, unless the context otherwise requires:

(a) “Commissioner” means the ~~livestock animal health~~ commissioner of the ~~state of Kansas~~ *department of agriculture*.

(b) “Livestock” means cattle, *bison*, swine, horses, sheep, goats, ~~poultry, camelids~~ and all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas and domesticated deer.

(c) “Livestock dealer” means any person engaged in the business of buying or selling livestock in commerce, either on that person’s own account or as the employee or agent of the seller or purchaser, or any person engaged in the business of buying or selling livestock in commerce on a commission basis and shall include any person who buys or sells livestock with the use of a video. “Livestock dealer” does not include any person who buys or sells livestock as part of that person’s own breeding, feeding or dairy operation, nor any person who receives livestock exclusively for immediate slaughter.

(d) “Person” means any individual, partnership, corporation, company, firm or association. “Person” does not include any public livestock market operator licensed under K.S.A. 47-1001 *et seq.*, and amendments thereto, or any feedlot operator licensed under K.S.A. 47-1501 *et seq.*, and amendments thereto.

(e) “Domesticated deer” means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

Sec. 38. K.S.A. 47-1807 is hereby amended to read as follows: 47-

1807. (a) Any person violating or failing to comply with the provisions of ~~this act~~ K.S.A. 47-1804 through 47-1808, and amendments thereto, shall be deemed guilty of a class A misdemeanor.

(b) *The commissioner, after providing notice and opportunity for a hearing in accordance with the Kansas administrative procedure act, may assess a civil penalty against any person who violates or fails to comply with the requirements of this act, or any rules and regulations adopted hereunder, of not less than \$100 nor more than \$1,000 per violation. A separate civil penalty may be assessed for each separate violation. Such civil penalty may be assessed in addition to any other penalty provided by law.*

Sec. 39. On January 1, 2013, K.S.A. 2011 Supp. 47-1809 is hereby amended to read as follows: 47-1809. (a) As used in this section, “feral swine” means any untamed or undomesticated hog, boar or pig; swine whose reversion from the domesticated state to the wild state is apparent; or an otherwise freely roaming swine having no visible tags, markings or characteristics indicating that such swine is from a domestic herd, and reasonable inquiry within the area does not identify an owner. *Feral swine includes members of the species sus scrofa lineas, including, but not limited to, swine commonly known as old world swine, Russian wild boar, European wild boar, Eurasian wild boar and razorbacks. Feral swine does not include members of the species sus domestica which are involved in domestic hog production.*

(b) No person shall import, transport or possess live feral swine in this state.

(c) No person shall intentionally or knowingly release any hog, boar, pig or swine to live in a wild or feral state upon public or private land.

(d) *No person shall engage in, sponsor, or assist in the operation of a contained hunting preserve of swine, whether such swine are feral or otherwise, within this state. For the purposes of this subsection, any tract of land on which a fence or other apparatus is used to prevent the free roaming of swine which are to be hunted and not used solely for domestic swine production shall be deemed to be a contained hunting preserve.*

~~(d)~~(e) No person shall engage in, sponsor, instigate, assist or profit from the release, killing, wounding or attempted killing or wounding of feral swine for the purpose of sport, pleasure, amusement or production of a trophy.

~~(e)~~(f) Violation of subsection (b) ~~or~~, (c) or (d) may result in a civil penalty in the amount of not less than \$1,000 nor more than \$5,000 for each such violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

~~(f)~~(g) Violation of subsection ~~(d)~~(e) may result in a civil penalty of not less than \$250 nor more than \$2,500 for each such violation.

~~(g)~~(h) Any duly authorized agent of the ~~livestock~~ *animal health* commissioner, upon a finding that any person, or agent or employee thereof, has violated any of the provisions stated above, may impose a civil penalty upon such person as provided in this section.

~~(h)~~(i) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the ~~livestock~~ *animal health* commissioner to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person ~~to appeal to the commissioner~~ *to request a hearing in the matter*. Any such person, within 20 days after notification, may make written request to the commissioner for a hearing in accordance with the provisions of the Kansas administrative procedure act. ~~The commissioner shall affirm, reverse or modify the order and shall specify the reasons therefor.~~

~~(i)~~(j) Any person aggrieved by an order of the commissioner made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

~~(j)~~(k) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

~~(k)~~(l) The ~~livestock~~ *animal health* commissioner of the ~~Kansas department of agriculture~~, or the authorized representative of the ~~livestock~~

animal health commissioner, may destroy or require the destruction of any feral swine upon discovery of such swine.

~~(m)~~(m) The provisions of this section shall not be construed to prevent owners or legal occupants of land, the employees of such owners or legal occupants or persons designated by such owners or legal occupants from killing any feral swine when found on their premises or when destroying property. Such designees shall have a permit issued by the ~~livestock-animal health~~ *animal health* commissioner in their possession at the time of the killing of the feral swine.

~~(n)~~(n) The ~~livestock-animal health~~ *animal health* commissioner may adopt rules and regulations to carry out the provisions of this section.

Sec. 40. K.S.A. 2011 Supp. 47-1825 is hereby amended to read as follows: 47-1825. ~~This act~~ *The provisions of K.S.A. 47-1825 through 47-1828, and amendments thereto,* shall be known and may be cited as the farm animal and field crop and research facilities protection act.

Sec. 41. K.S.A. 2011 Supp. 47-1826 is hereby amended to read as follows: 47-1826. As used in ~~this~~ *the farm animal and field crop and research facilities protection act:*

(a) “Animal” means any warm or coldblooded animal used in food, fur or fiber production, agriculture, research, testing or education and includes dogs, cats, poultry, fish and invertebrates.

(b) “Animal facility” includes any vehicle, building, structure, research facility or premises where an animal is kept, handled, housed, exhibited, bred or offered for sale.

(c) “Consent” means assent in fact, whether express or apparent.

(d) “Deprive” means to:

(1) Withhold an animal or other property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

(2) restore the animal or other property only upon payment of reward or other compensation; or

(3) dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(e) “Effective consent” includes consent by a person legally authorized to act for the owner. Consent is not effective if:

(1) Induced by force, *fraud, deception, duress* or threat;

(2) given by a person the offender knows is not legally authorized to act for the owner; or

(3) given by a person who by reason of youth, mental disease or defect or under the influence of drugs or alcohol is known by the offender to be unable to make reasonable decisions.

(f) “Owner” means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor.

(g) “Person” means any individual, state agency, corporation, association, nonprofit corporation, joint stock company, firm, trust, partnership, two or more persons having a joint or common interest or other legal entity.

(h) “Possession” means actual care, custody, control or management.

(i) “Research facility” means any place, laboratory, institution, medical care facility, elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal or field crop product is carried out, conducted or attempted.

Sec. 42. K.S.A. 47-2306 is hereby amended to read as follows: 47-2306. Any person who shall violate any of the provisions of ~~this act~~ *article 23 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto,* shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ~~\$25-\$100~~ nor more than ~~\$500~~ *\$1,000* or by imprisonment in the county jail for not less than 30 nor more than 90 days, or by both such fine and imprisonment.

Sec. 43. K.S.A. 47-120, 47-121, 47-122, 47-237, 47-238, 47-419, 47-422, 47-424, 47-619, 47-621, 47-636, 47-637, 47-638, 47-639, 47-641, 47-642, 47-643, 47-644, 47-647, 47-648, 47-649, 47-650, 47-651, 47-652, 47-653, 47-653d, 47-653e, 47-653f, 47-653g, 47-653h, 47-654, 47-655, 47-656, 47-666, 47-667, 47-668, 47-669, 47-670, 47-671, 47-921, 47-922, 47-923, 47-1001, 47-1002, 47-1005, 47-1005b, 47-1010, 47-1102, 47-

1213, 47-1217, 47-1219, 47-1301, 47-1305, 47-1306, 47-1509, 47-1701, 47-1710, 47-1711, 47-1723, 47-1725, 47-1726, 47-1727, 47-1801, 47-1804, 47-1807 and 47-2306 and K.S.A. 2011 Supp. 47-672, 47-1008, 47-1302, 47-1307, 47-1706, 47-1707, 47-1708, 47-1709, 47-1825 and 47-1826 are hereby repealed.

Sec. 44. On January 1, 2013, K.S.A. 2011 Supp. 47-1809 is hereby repealed.

Sec. 45. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.