SENATE BILL No. 148

By Committee on Agriculture

AN ACT concerning veterinary medicine; amending K.S.A. 2010 Supp. 47-839 and repealing the existing section.

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

Section 1. K.S.A. 2010 Supp. 47-839 is hereby amended to read as follows: 47-839. (a) Except as otherwise provided under K.S.A. 47-622 and 47-624, and amendments thereto, a licensed veterinarian shall not disclose any information concerning the veterinarian's care of an animal except on written authorization or other waiver by the veterinarian's client or on appropriate court order or subpoena. Any veterinarian who releases information under written authorization or other waiver by the client or under court order or subpoena shall not be liable to the client or any other person. The privilege provided by this section shall be waived under the following circumstances: (1) Reporting cruel or inhumane treatment of any animal to federal, state or local governmental agencies; (2) where information is necessary to provide care in an emergency where the absence of immediate medical attention could reasonably be expected to place the animal's health in serious jeopardy or impair bodily function; (3) where the failure to disclose vaccination information may endanger the public's health, safety or welfare; (4) where the veterinarian's client or the owner of the animal places the veterinarian's care and treatment of the animal or the nature and extent of injuries to the animal at issue in any civil or criminal proceeding; or (5) in relation to any investigation by the board and any subsequent administrative disciplinary action brought by the board.

(b) As used in this section:

(1) “Client” means as defined in “veterinary-client-patient relationship” in K.S.A. 47-816, and amendments thereto.

(2) “Confidential communication between veterinarian and client” means such information transmitted between veterinarian and client, including information obtained by an examination of the client's animal, as is transmitted in confidence and by a means which, so far as the client is aware, discloses the information to no third persons other than those reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it is transmitted.

(3) “Holder of the privilege” means the client while alive and not
under guardianship or conservatorship or the guardian or conservator of
the client, or the personal representative of a deceased client.

(4) “Patient” means, whether in the singular or plural, an animal
as defined by K.S.A. 47-816, and amendments thereto, who a client, or
the authorized agent of a client, for the sole purpose of securing
preventive, palliative, or curative treatment, or a diagnosis preliminary to
such treatment, of such client’s animal’s physical or mental condition,
consults a veterinarian, or submits an animal for examination by a
veterinarian.

(5) “Person” means as defined in K.S.A. 47-816, and amendments
thereto.

(6) “Veterinarian” means a person licensed or reasonably believed
by the client to be licensed to practice veterinary medicine as defined in
K.S.A. 47-816, and amendments thereto, in the state or jurisdiction in
which the consultation or examination takes place.

(b) Except as provided in subsections (c), (d), (e) and (f), a person,
whether or not a party, has a privilege in a civil action or in a
prosecution for a misdemeanor; to refuse to disclose, and to prevent a
witness from disclosing, a communication, if the person claims the
privilege and the judge finds that: (1) The communication was a
confidential communication between client and veterinarian; (2) the
patient or the veterinarian reasonably believed the communication
necessary or helpful to enable the veterinarian to make a diagnosis of the
condition of the client’s animal or to prescribe or render treatment for the
animal; (3) the witness (i) is the holder of the privilege, (ii) at the time of
the communication was the veterinarian or a person to whom disclosure
was made because disclosure was reasonably necessary for the
transmission of the communication or for the accomplishment of the
purpose for which it was transmitted or (iii) is any other person who
obtained knowledge or possession of the communication as the result of
an intentional breach of the veterinarian’s duty of nondisclosure by the
veterinarian or the veterinarian's agent or servant; and (4) the claimant
is the holder of the privilege or a person authorized to claim the privilege
for the holder of the privilege.

(c) There is no privilege under this section in an action in which the
condition of the client’s animal is an element or factor of the claim or
defense of the client or of any party claiming through or under the client
or claiming as a beneficiary of the client through a contract to which the
client is or was a party.

(d) There is no privilege under this section: (i) As to information
required to be disclosed by a veterinarian pursuant to K.S.A. 47-622 and
47-624, and amendments thereto; and (ii) as to any other information
which the veterinarian or the client is required to report to a public
official or as to information required to be recorded in a public office, unless the statute requiring the report or record specifically provides that the information shall not be disclosed.

(e) No person has a privilege under this section if the judge finds that sufficient evidence, aside from the communication has been introduced to warrant a finding that: (i) The services of the veterinarian were sought or obtained to enable or aid anyone to commit or to plan to commit a crime or a tort, or to escape detection or apprehension after the commission of a crime or a tort; (ii) reporting cruel or inhumane treatment of any animal to federal, state or local governmental agencies; (iii) where information is necessary to provide care in an emergency where the absence of immediate veterinary medical attention could reasonably be expected to place the animal’s health in serious jeopardy or impair bodily function; (iv) where the failure to disclose vaccination information may endanger the public’s health, safety or welfare; and (v) in relation to any investigation by the board and any subsequent administrative disciplinary action brought by the board.

(f) A privilege under this section as to a communication is terminated if the judge finds that any person while a holder of the privilege has caused the veterinarian or any agent or servant of the veterinarian to testify in any action to any matter of which the veterinarian or the veterinarian’s agent or servant gained knowledge through the communication.

(g) Providing false information to a veterinarian for the purpose of obtaining a prescription-only drug shall not be a confidential communication between veterinarian and client and no person shall have a privilege in any prosecution for unlawfully obtaining or distributing a prescription-only drug under K.S.A. 21-36a08, and amendments thereto.

(h) This section shall be part of and supplemental to the Kansas veterinary practice act.

Sec. 2. K.S.A. 2010 Supp. 47-839 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.