

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 125**

As Recommended by House Committee on
Agriculture and Natural Resources

Brief*

House Sub. for SB 125 would make numerous changes to the Kansas Pet Animal Act (Act). Among those changes are the addition and regulation of rescue networks, as well as the issuance of rescue network manager licenses. The bill also would repeal several statutes, including the severability clause for the Act.

Rescue Network Manager License and Animal Shelters

The bill would make it unlawful to operate a rescue network without a rescue network manager license. The bill would require the Animal Health Commissioner (Commissioner) to adopt and implement rules and regulations concerning rescue networks.

Further, the bill would permit rescue networks and animal shelters to utilize pet animal foster homes and require the rescue networks and animal shelters to keep records of all pet animal foster homes housing animals and pay a \$20 annual fee for each subordinate pet animal foster home. The rescue networks and shelters would be responsible for ensuring pet animal foster homes comply with all applicable state laws. Once an animal shelter or rescue network manager license has been obtained, the animal shelter or the rescue network manager could host adoption events at

*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>

locations other than the licensed premises after providing advanced notice of the event to the Commissioner.

Definitions

The bill would modify the definition of “animal breeder premises” to be a place where 3 (current law permits 6) or more litters of dogs or cats, or both, or 30 or more dogs or cats are sold, offered, or maintained for sale. This definition would apply whether the premise is licensed or not licensed by the U.S. Department of Agriculture (USDA). Further, the bill would clarify the definition of “adequate watering” and would eliminate the definitions for “hobby breeder,” “hobby breeder premises,” “retail breeder,” “retail breeder premises,” “retail,” and “wholesale.” Definitions for “rescue network,” “rescue network manager,” and “pet animal foster home” would be added.

The terms “pound” and “kennel” are stricken throughout the Act and replaced with “facility” and “premises.”

Fees, Licenses, and Permits

The bill would change or set the fees permitted to be charged under the Act as follows:

- Animal distributors—Maximum \$400 (from \$200);
- Animal breeders—Maximum \$450 (new);
- Pet shop—Maximum \$600 (from \$405, distinguished from “other premises”);
- Out-of-state distributor permit—Maximum \$650 (from \$675);
- Research facility—Maximum \$300 (new);
- Boarding or training premises license—Maximum \$200 (new);

- Animal shelter—Maximum \$550 (from \$300);
- Rescue Network Manager License—\$125 (new);
and
- Late fee—\$100 (from \$70).

The bill would delete “temporary closing permit” from the schedule of permit and license fees. In addition, provisions in the bill would require premises, which are licensed under multiple license categories, to pay for the most expensive license applicable and a \$50 fee for each additional applicable license. If the Commissioner determines a premises has been doing business without a license or permit, the bill would allow a civil penalty imposed of up to three times the annual license fee. An additional provision of the bill would require licenses and permits to end on September 30 rather than June 30 each year. The bill also would change the name of the current Animal Dealers Fee Fund, where money received from license and permit fees is deposited, to the Animal Facilities Fee Fund.

Pet Animal Advisory Board Members

The bill would amend provisions of the Act dealing with the Pet Animal Advisory Board as follows:

- Add a requirement that members be residents of Kansas;
- Provide that the member representing research facilities could be an employee of an animal health research facility operated by a public educational institution in the state;
- Require of the two members representing animal breeders, one must hold an USDA license and the other must not hold an USDA license;

- Clarify the private citizen member cannot be licensed under the Act and can have no professional affiliation with any person or entity licensed under the Act;
- Eliminate the hobby breeder member; and
- Add a member who is a licensed rescue network manager.

Records and Inspections

Under the provisions of the bill, licensed animal breeders and animal distributors with USDA licenses would be permitted to use their veterinary care forms to meet the requirement of the Act as long as they are made available to the Kansas Department of Agriculture inspectors and are maintained for three years.

The bill would require the Commissioner to adopt an inspection frequency schedule, as well as require the inspection of all licensed and permitted entities under the Act. The inspection frequency schedule could take into account the performance history of a premises or the relative risk posed by the premises to the health, safety, and welfare of the animals. Language mandating that records of a deficiency or violation would not be maintained for more than three years would be repealed and new language would require such records be maintained according to new retention schedules.

The bill would make clear that the Commissioner could adopt only federal standards regarding facility operations and husbandry standards as applicable rules and regulations for federally licensed animal distributors and animal breeders. The bill would, however, permit the Commissioner to require those who are federally licensed to comply with state rules and regulations regarding maintenance and inspection of

records, identification of animals, adequate veterinary care, and access to and inspection of premises.

Spaying and Neutering

The bill would clarify that no person could spay or neuter a dog or cat on behalf of an animal shelter or rescue network unless the person is a licensed veterinarian or a veterinary student currently enrolled in an accredited college of veterinary medicine who has completed at least two years of study. The bill would require those spaying and neutering under this provision to comply with the Kansas Veterinary Practice Act.

Background

The House Agriculture and Natural Resources Committee deleted the provisions of SB 125 and inserted the provisions of HB 2554, as amended by the House Committee on Agriculture and Natural Resources. Contents of SB 125, to allow for the disposal of waste containing low concentration of naturally-occurring radioactive materials (NORM) and technologically-enhanced NORM by underground burial, were enacted in 2015 in SB 124.

SB 125 Background

SB 125 was introduced by the Senate Committee on Natural Resources during the 2015 Session.

At the Senate Committee hearing on the bill, the Director of the Bureau of Waste Management, Kansas Department of Health and Environment (KDHE); the Director of the Conservation Division, Kansas Corporation Commission (KCC); and representatives of the National Waste & Recycling Association, and Waste Management of Kansas, Inc. provided testimony in favor of the bill. There was no neutral or opponent testimony at the hearing.

The Director of the Bureau of Waste Management stated when KDHE recently studied alternative methods for the disposal for oil and gas drilling waste, a sampling program revealed drill cuttings contained NORM at low concentrations similar to background levels found in common rocks and soils. The proponents stated the passage of the bill would allow the most common disposal method for drilling waste into pits permitted by the KCC to continue and authorize KDHE to develop regulations permitting both NORM and TENORM to be disposed of in certain permitted landfills that satisfy the highest design and operating requirements. The proponents noted many other states are presently addressing this issue.

The Senate Committee of the Whole amended the bill to add "on or before July 1, 2016," with regard to the Secretary of Health and Environment promulgating rules and regulations.

The House Agriculture and Natural Resources Committee deleted the provisions of SB 125 and inserted the provisions of HB 2554, as amended by the House Committee on Agriculture and Natural Resources.

The fiscal note prepared by the Division of the Budget on SB 125, as introduced, states KDHE indicates the passage of the bill would have no fiscal effect on agency operations.

HB 2554

HB 2554 was introduced at the request of a spokesperson from the Kansas Department of Agriculture.

At the hearing on the bill before the House Agriculture and Natural Resources Committee, proponents included a spokesperson for the Kansas Department of Agriculture, the Kansas Livestock Association, Kansas Pet Professionals, Great Plains, SPCA; and two individuals.

Neutral testimony was provided by Representative Garber.

Opponents included representatives of the Kansas Federation of Animal Owners, a private veterinarian, and three individuals.

The House Agriculture and Natural Resources Committee amended the bill to:

- Restore the definition of “ambient temperature” in the definition section;
- Amend the definition of “animal breeder premises” to change the number of litters from six to three;
- Restore and amend language dealing with animal breeder and animal distributors who are federally licensed to allow them to use certain federal forms and yet meet the requirements of the Act;
- Clarify that the Commissioner is to recognize federal regulations regarding facility operations and husbandry standards for animal breeders and animal distributors in the state; and
- Clarify that the Commissioner may require those with federal licenses to meet state requirements for maintenance and inspection of records, identification of animals, adequate veterinary care and access to and inspection of premises.

The fiscal note on HB 2554 indicates the Kansas Department of Agriculture estimates enactment of the bill would result in increased revenue to the agency fee funds of \$146,115 in FY 2017. This amount assumes licensee numbers will remain fairly consistent. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor’s Budget Report*.