

SENATE BILL No. 384

AN ACT concerning counties; creating the Riley county unincorporated area nuisance abatement act and the Crawford county unincorporated area nuisance abatement act; establishing procedures for the removal and abatement of nuisances; providing for the assessment of costs of such abatement; relating to emergency medical services; staffing of ambulances; authorizing the emergency medical services board to grant certain permanent variances from rules and regulations; permitting ambulances to operate with one certified emergency medical services provider in rural counties; amending K.S.A. 2023 Supp. 65-6111 and 65-6135 and repealing the existing sections.

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

New Section 1. (a) The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the Riley county unincorporated area nuisance abatement act.

(b) Before any nuisance abatement process shall be commenced under the Riley county unincorporated area nuisance abatement act, Riley county first shall have obtained a conviction for a county code violation resulting from such nuisance within the 12-month period prior to the issuance of any order as provided in section 2, and amendments thereto.

(c) (1) The board of county commissioners may order the removal or abatement of any nuisance from any lot or parcel of ground within the unincorporated area of the county. The board may order the repair or demolition of any structure or the removal or abatement of any other type of nuisance.

(2) The order shall provide that all costs associated with the abatement shall be paid by the owner of the property on which the nuisance is located.

New Sec. 2. (a) Whenever the board of county commissioners or other agency designated by the board files with the Riley county clerk a statement in writing describing a nuisance and declaring that such nuisance is a menace and dangerous to the health of the inhabitants of the county, the board of county commissioners, by resolution, may make such determination and issue an order requiring the nuisance be removed or abated.

(b) Except as provided by subsection (c), the board of county commissioners shall order the owner of the property to remove and abate the nuisance within not less than 10 days, to be specified in the order. The board or its designated representative may grant extensions of the time period indicated in the order. The order shall state that, before the expiration of the waiting period or any extension, the recipient may request a hearing before the board or its designated representative. The order shall be served on the owner by personal service in accordance with K.S.A. 60-303, and amendments thereto.

(c) If the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding 24-month period, the board of county commissioners may provide notice of the issuance of any further orders to abate or remove a nuisance from the property in the manner provided by subsection (d) or as provided in this subsection. The board may provide notice of the order by such methods including, but not limited to, door hangers conspicuously posting notice of the order on the property, personal notification, telephone communication or first-class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

(d) If the owner of the property fails to comply with the order for a period longer than that named in the order or any extensions of such time period, the board of county commissioners may proceed to order the repair or demolition of any structure and have the items described in the order removed and abated from the lot or parcel of ground. If the

county abates or removes the nuisance, the county shall give notice to the owner by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the county. The notice also shall state that payment of the cost is due and payable within 60 days following the mailing of the notice.

(e) If the cost of the removal or abatement is not paid within the 60-day period, the cost shall be assessed and charged against the lot or parcel of land on which the nuisance was located. If the cost is to be assessed, the county clerk, at the time of certifying other county taxes, shall certify the costs, and the county clerk shall extend the cost on the tax roll of the county against the lot or parcel of land. Such cost shall be collected by the county treasurer.

(f) In assessing the cost of removal and abatement of a nuisance, the county shall subtract from the total cost of the abatement or removal incurred by the county the value of the property removed or abated. If the value of the property removed or abated is greater than the cost of the removal or abatement incurred by the county, the county shall pay the owner the difference. If the value of the property is contested, the property owner may request a hearing before the board or its designated representative prior to the 60 days following receipt of notice of costs due and payable under subsection (d).

(g) All orders and notices shall be served on the owner of record or, if there is more than one owner of record, then on at least one such owner.

(h) Any decision of the board of county commissioners or its designated representative is subject to review in accordance with the Kansas judicial review act.

New Sec. 3. Riley county may remove and abate from property, other than public property or property open to use by the public, a motor vehicle determined to be a nuisance. Disposition of such vehicles shall be in compliance with the procedures for impoundment, notice and public auction provided by K.S.A. 8-1102(a)(2), and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of the motor vehicle. If a public auction is conducted but no responsible bid is received, the county may file proof with the division of vehicles, and the division shall issue a certificate of title of the motor vehicle to the county. Any person whose motor vehicle has been disposed of pursuant to this section shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-5101 et seq., and amendments thereto. The amount of the refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

New Sec. 4. The board of county commissioners may adopt a resolution to establish any policies, procedures, designated body or other related matters for hearings that property owners or their agents may request pursuant to the Riley county unincorporated area nuisance abatement act.

New Sec. 5. (a) The legislature declares it is the policy of this state to protect and encourage the production and processing of food and other agricultural products. As nonagricultural uses of property continue to move into agricultural and agribusiness areas, normal agricultural and agribusiness activities can find themselves subjected to public and private claims of nuisance. Therefore, it is the legislative intent of this act to protect agricultural and agribusiness activities from nuisance actions. As such, nothing in the Riley county unincorporated area nuisance abatement act shall apply to land, structures, machinery and equipment or motor vehicles used for an agricultural activity or oil and gas exploration and development activity.

(b) For purposes of this section, the term "agricultural activity" means the same as defined in K.S.A. 2-3203, and amendments thereto, except such term shall also include real and personal property, machinery, equipment, stored grain and agricultural input products owned or maintained by commercial grain elevators and agribusiness facilities.

New Sec. 6. The Riley county unincorporated area nuisance abatement act, sections 1 through 6, and amendments thereto, shall expire on July 1, 2027.

New Sec. 7. (a) The provisions of sections 7 through 12, and amendments thereto, shall be known and may be cited as the Crawford county unincorporated area nuisance abatement act.

(b) Before any nuisance abatement process shall be commenced under the Crawford county unincorporated area nuisance abatement act, Crawford county first shall have obtained a conviction for a county code violation resulting from such nuisance within the 12-month period prior to the issuance of any order as provided in section 8, and amendments thereto.

(c) (1) The board of county commissioners may order the removal or abatement of any nuisance from any lot or parcel of ground within the unincorporated area of the county. The board may also order the repair or demolition of any structure or the removal or abatement of any other type of nuisance.

(2) The order shall provide that all costs associated with the abatement shall be paid by the owner of the property on which the nuisance is located.

New Sec. 8. (a) Whenever the board of county commissioners or other agency designated by the board files with the Crawford county clerk a statement, in writing, describing a nuisance and declaring that such nuisance is a menace and dangerous to the health of the inhabitants of the county, the board of county commissioners, by resolution, may make such determination and issue an order requiring the nuisance be removed or abated.

(b) Except as provided by subsection (c), the board of county commissioners shall order the owner of the property to remove and abate the nuisance within not less than 10 days, to be specified in the order. The board or its designated representative may grant extensions of the time period indicated in the order. The order shall state that, before the expiration of the waiting period or any extension, the recipient may request a hearing before the board or its designated representative. The order shall be served on the owner by personal service in accordance with K.S.A. 60-303, and amendments thereto.

(c) If the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice sent pursuant to this section during the preceding 24-month period, the board of county commissioners may provide notice of the issuance of any further orders to abate or remove a nuisance from the property in the manner provided by subsection (d) or as provided in this subsection. The board may provide notice of the order by such methods, including, but not limited to, door hangers conspicuously posting notice of the order on the property, personal notification, telephone communication or first-class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first-class mail.

(d) If the owner of the property fails to comply with the order for a period longer than that named in the order or any extensions of such time period, the board of county commissioners may proceed to order the repair or demolition of any structure and have the items described in the order removed and abated from the lot or parcel of ground. If the

county abates or removes the nuisance, the county shall give notice to the owner, by certified mail, with return receipt requested, of the total cost of the abatement or removal incurred by the county. The notice also shall state that payment of the cost is due and payable within 60 days following the mailing of the notice.

(e) If the cost of the removal or abatement is not paid within the 60-day period, the cost shall be assessed and charged against the lot or parcel of land on which the nuisance was located. If the cost is to be assessed, the county clerk, at the time of certifying other county taxes, shall certify the costs, and the county clerk shall extend the cost on the tax roll of the county against the lot or parcel of land. Such cost shall be collected by the county treasurer.

(f) In assessing the cost of removal and abatement of a nuisance, the county shall subtract from the total cost of the abatement or removal incurred by the county the value of the property removed or abated. If the value of the property removed or abated is greater than the cost of the removal or abatement incurred by the county, the county shall pay the owner the difference. If the value of the property is contested, the property owner may request a hearing before the board or its designated representative prior to the 60 days following receipt of notice of costs due and payable under subsection (d).

(g) All orders and notices shall be served on the owner of record or, if there is more than one owner of record, then on at least one such owner.

(h) Any decision of the board of county commissioners or its designated representative is subject to review in accordance with the Kansas judicial review act.

New Sec. 9. Crawford county may remove and abate from property, other than public property or property open to use by the public, a motor vehicle determined to be a nuisance. Disposition of such vehicles shall be in compliance with the procedures for impoundment, notice and public auction provided by K.S.A. 8-1102(a) (2), and amendments thereto. Following any sale by public auction of a vehicle determined to be a nuisance, the purchaser may file proof with the division of vehicles, and the division shall issue a certificate of title to the purchaser of the motor vehicle. If a public auction is conducted but no responsible bid is received, the county may file proof with the division of vehicles, and the division shall issue a certificate of title of the motor vehicle to the county. Any person whose motor vehicle has been disposed of pursuant to this section shall be eligible for a refund of the tax imposed pursuant to K.S.A. 79-5101 et seq., and amendments thereto. The amount of the refund shall be determined in the manner provided by K.S.A. 79-5107, and amendments thereto.

New Sec. 10. The board of county commissioners may adopt a resolution to establish any policies, procedures, designated body or other related matters for hearings that property owners or their agents may request pursuant to the Crawford county unincorporated area nuisance abatement act.

New Sec. 11. (a) The legislature declares it is the policy of this state to protect and encourage the production and processing of food and other agricultural products. As nonagricultural uses of property continue to move into agricultural and agribusiness areas, normal agricultural and agribusiness activities can find themselves subjected to public and private claims of nuisance. Therefore, it is the legislative intent of this act to protect agricultural and agribusiness activities from nuisance actions. As such, nothing in the Crawford county unincorporated area nuisance abatement act shall apply to land, structures, machinery and equipment or motor vehicles used for an agricultural activity or oil and gas exploration and development

activity.

(b) For purposes of this section, the term "agricultural activity" means the same as defined in K.S.A. 2-3203, and amendments thereto, except such term shall also include real and personal property, machinery, equipment, stored grain and agricultural input products owned or maintained by commercial grain elevators and agribusiness facilities.

New Sec. 12. The Crawford county unincorporated area nuisance abatement act, sections 7 through 12, and amendments thereto, shall expire on July 1, 2027.

Sec. 13. K.S.A. 2023 Supp. 65-6111 is hereby amended to read as follows: 65-6111. (a) The emergency medical services board shall:

(1) Adopt any rules and regulations necessary to carry out the provisions of this act;

(2) review and approve the allocation and expenditure of moneys appropriated for emergency medical services;

(3) conduct hearings for all regulatory matters concerning ambulance services, emergency medical service providers, instructor-coordinators, training officers and sponsoring organizations;

(4) submit a budget to the legislature for the operation of the board;

(5) develop a state plan for the delivery of emergency medical services;

(6) enter into contracts as may be necessary to carry out the duties and functions of the board under this act;

(7) review and approve all requests for state and federal funding involving emergency medical services projects in the state or delegate such duties to the executive director;

(8) approve all training programs for emergency medical service providers and instructor-coordinators and prescribe certification application fees by rules and regulations;

(9) approve methods of examination for certification of emergency medical service providers and instructor-coordinators and prescribe examination fees by rules and regulations;

(10) appoint a medical advisory council of not less than six members, including one board member who shall be a physician and not less than five other physicians who are active and knowledgeable in the field of emergency medical services who are not members of the board to advise and assist the board in medical standards and practices as determined by the board. The medical advisory council shall elect a chairperson from among its membership and shall meet upon the call of the chairperson; and

(11) approve sponsoring organizations by prescribing standards and requirements by rules and regulations and withdraw or modify such approval in accordance with the Kansas administrative procedure act and the rules and regulations of the board.

(b) (1) *Except as otherwise provided*, the emergency medical services board may grant a temporary variance from an identified rule or regulation when a literal application or enforcement of the rule or regulation would result in serious hardship and the relief granted would not result in any unreasonable risk to the public interest, safety or welfare.

(2) *Any variance granted pursuant to paragraph (1) may be granted as a permanent variance if the variance is from an identified rule or regulation adopted to implement, enforce or otherwise regulate the provisions of K.S.A. 65-6135, and amendments thereto.*

(c) (1) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the board, in accordance with the Kansas administrative procedure act, upon the finding of a violation of

a provision of this act or the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted pursuant to such provisions may impose a fine on:

(A) Any person granted a certificate by the board in an amount not to exceed \$500 for each violation; or

(B) an ambulance service that holds a permit to operate in this state or on a sponsoring organization in an amount not to exceed \$2,500 for each violation.

(2) All fines assessed and collected under 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.

(d) (1) In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, laboratory, pharmacy, medical care facility or other public or private agency, if such document, report, record or evidence relates to professional competence, unprofessional conduct or the mental or physical ability of the person to perform activities the person is authorized to perform.

(2) For the purpose of all investigations and proceedings conducted by the board:

(A) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person being investigated to perform activities the person is authorized to perform. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices that may be grounds for disciplinary action, is not relevant to the charge that is the subject matter of the proceeding or investigation or does not describe with sufficient particularity the physical evidence that is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(B) Any person appearing before the board shall have the right to be represented by counsel.

(C) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(i) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(ii) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices that may be grounds for disciplinary action, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence that is required to be produced.

(3) Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any certificate or

permit issued under article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to this act.

(4) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this subsection shall be confidential and shall not be disclosed.

(5) Nothing in this subsection or any other provision of law making communications between a physician and the physician's patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this subsection. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this subsection.

(e) The emergency medical services board shall prepare an annual report on or before January 15 of each year on the number, amount and reasons for the fines imposed by the board and the number of and reasons for subpoenas issued by the board during the previous calendar year. The report shall be provided to the senate committee on federal and state affairs and the house committee on federal and state affairs.

Sec. 14. K.S.A. 2023 Supp. 65-6135 is hereby amended to read as follows: 65-6135. (a) All ambulance services providing emergency care as defined by the rules and regulations adopted by the board shall offer service 24 hours per day every day of the year.

(b) Whenever an operator is required to have a permit, at least one person on each vehicle providing emergency medical service shall be an emergency medical service provider certified pursuant to K.S.A. 65-6119, 65-6120 or 65-6121, and amendments thereto, ~~a physician~~ *an individual licensed by the state board of healing arts to practice medicine and surgery*, a physician assistant, an advanced practice registered nurse or a professional nurse.

(c) The board shall not require any ground vehicle providing interfacility transfers from any county with a population of 30,000 or less to operate with more than one person who satisfies the requirements of subsection (b) if the driver of such vehicle is certified in cardiopulmonary resuscitation.

Sec. 15. K.S.A. 2023 Supp. 65-6111 and 65-6135 are hereby repealed.

Sec. 16. 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 SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.