

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2596**

As Agreed to April 26, 2012

Brief*

Senate Sub. for HB 2596 would enact new statutes and amend various existing statutes regarding animal health.

Definitions

The bill would amend the definition for "livestock" within KSA Chapter 47 to 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 deemed necessary by the Animal Health Commissioner (Commissioner), Animal Health Division, Kansas Department of Agriculture (KDA), through rules and regulations.

In addition, the bill would define feral swine as members of the species *sus scrofa lineas*, including swine known as old world swine, Russian wild boar, European wild boar, Eurasian wild boar, and razorbacks. The bill would exclude from the definition members of the species *sus domestica*, which are involved in domestic hog production. Additionally, the bill would prohibit the operation of a contained hunting preserve of swine. This provision would become effective January 1, 2013.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Public Livestock Markets

The bill would amend the public livestock market statutes to allow bond equivalents, making Kansas law consistent with the federal law. Bond equivalents would be required to be in one of the following forms:

- A trust fund agreement governing funds actually deposited or invested in fully negotiable obligations of the U.S. of federally-insured deposits or accounts; or
- 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.

In addition, the bill would authorize the Commissioner to refuse to grant, suspend, or revoke a public livestock market license if there has been a failure to timely remit fees or a failure to properly maintain custodial accounts or bonds. The Commissioner would be authorized to issue an emergency order to suspend the license if bonds expire without suitable replacement or if a shortage exists in custodial accounts which creates a danger to public welfare.

In addition, the Commissioner would be authorized to apply for an injunction restraining any person from violating the public livestock market statutes.

Kansas Pet Animal Act

The bill would make various changes to the Kansas Pet Animal Act (Act):

- Remove the exemption for greyhounds from the definition of "dog," and add language stating the Act would not apply to any farm or kennel which is registered with, and inspected by, the National

Greyhound Association, which is used solely for breeding, maintaining, training, or selling greyhound dogs. The Commissioner would have the authority to enter into agreements with the National Greyhound Association regarding registration and inspection procedures, including the Commission having access to records and complete inspections of the premises;

- Add language requiring adequate records to be kept for animals provided with veterinary care. Additionally, the bill would allow for a license to be suspended if a license or permit holder failed to provide adequate medical care to animals or failed to maintain or provide records of that medical care. Further, veterinary care would be documented and maintained on the premises for diseased, ill, lame, or blind animals. All documentation for various subsections would be available for the Commissioner's inspection and would be maintained for three years after the date of administering the veterinary care;
- Clarify that no license or permit would be issued by the Commissioner under the Act until the premises for which the application is made has passed a licensing or permitting inspection;
- Add an animal breeder's license to the list of prohibited licenses that an animal control officer could not be granted under the Act;
- Add language to the Act stating no license or permit shall be issued until the applicant has passed a licensing inspection; as well as simplifying language to allow the Commissioner to inspect licensed premises at his or her discretion;
- Add language authorizing the Commissioner to issue a quarantine order for regulated premises

where animals are found to be infected with a contagious or zoonotic disease that could infect animals or humans;

- Add language that, if access to any location where access is authorized under the Act were denied, the Commissioner would be authorized to apply for an administrative search warrant; and
- Remove the staggered terms of the Kansas Pet Advisory Board and make other clarifying changes to the statutes of the Board.

Other Statutory Changes

The bill would make various other statutory changes to animal health statutes:

- Amend KSA 2011 Supp. 47-1826 to be entitled The Farm Animal and Field Crop and Research Facilities Protection Act;
- Add composting as an option for the various ways persons may dispose of dead animals;
- Clarify that the term "garbage," meaning all waste material derived in whole or in part from the meat of any animal, other animal waste material, and other refuse resulting from the handling, preparation, cooking, or consumption of food, would not include pasteurized dairy products;
- Adjust certain fine levels for misdemeanor crimes to be made consistent with fine maximums of other similarly classified misdemeanors and authorize the Commissioner to impose civil penalties for certain violations;
- Authorize the brand book and supplement to be distributed in electronic format;

- Clarify that for administrative proceedings of the Division of Animal Health, "agency head" would mean the Secretary of Agriculture or the Commissioner, when acting on behalf of the Secretary;
- Update references pertaining to the former Kansas Animal Health Department, Kansas Animal Health Board Commissioner, and the Livestock Commissioner; and
- Include numerous technical changes, repeal statutes that the language of the bill would replace, update or delete references to federal statutes, and update references to the Kansas Administrative Procedure Act.

Conference Committee Action

The Conference Committee agreed to make the provision relating to feral swine effective January 1, 2013, rather than July 1, 2012. In addition, the Conference Committee agreed to return to current law with respect to penalties associated with violations associated with brand law, disposal of dead animals, feeding of garbage to animals, and licensure of feedlots. Finally, the Conference Committee agreed to return to current law with respect to providing that "adequate veterinary medical care" not apply to animal breeders or animal distributors who are licensed by the United States Department of Agriculture.

Background

As it left the House, HB 2596 would have repealed KSA 2011 Supp. 74-509, concerning the duties of the Irrigation Commissioner. The Senate Committee on Agriculture removed these contents and replaced them with the contents of SB 414, as further amended.

At the Senate Committee on Agriculture hearing, the Commissioner, Division of Animal Health, KDA, provided testimony in favor of the bill, stating the bill's purpose is to update the animal health statutes and to aid Division of Animal Health employees to better fulfill the responsibilities of their jobs. The Commissioner also presented a list of proposed amendments to the bill. Representative Melanie Meier presented testimony in favor of the bill and proposed an amendment. Representative Jana Goodman presented testimony in favor of the bill, particularly the language that strikes the exception of greyhounds from the definition of "dog." Representatives of the Kansas Livestock Association and the Kansas Pork Association provided testimony in favor of the bill along with proposed amendments to the bill.

Representatives of the Kansas Federation of Animal Owners, Kansas Greyhound Association, National Greyhound Association, Heartland SPCA (Johnson County), Prairie Paws, Kansas Pet Professionals, and two members of the public presented testimony in opposition to various portions of the bill. In addition, written testimony in opposition to the bill was submitted by the Manhattan/Riley County Humane Society, Kansas Federation of Animal Owners, H-Bar-H Veterinary Hospital, and a member of the public.

Opponents spoke primarily on these issues: the greyhound exemption, the discretion of the Commissioner to require evidence that animals entering or leaving the state are free from communicable disease, and whether inspections should be mandatory or discretionary.

The National Greyhound Association and the Kansas Greyhound Association provided testimony that the exemption for greyhounds should be left in the statute as the majority of greyhounds are bred as racing animals and while they can be pets, that is not their primary purpose. They also stated that the Association inspects their members and that there is already an incentive to treat the animals well as they are being bred for high performance racing.

Animal shelters and breeders stated that deletion of the requirement that the Commissioner be able to receive evidence that animals entering or leaving the state were free from communicable diseases was a step backwards and could threaten the reputation of the industry in Kansas.

In regard to whether the language should be "may" or "shall" for the inspection of animal breeders, some breeders and animal shelters testified that the language should be "shall" as inspections are in the best interest of the animals and can help catch people who are neglecting animals. However, an animal breeder provided testimony that the reason for the current permissive language is that there are not enough inspectors or funding to deal with mandatory inspections of all premises while also dealing with all the complaints that are received. The testimony stated stakeholders in the business monitor the process through an advisory board and have an interest in making sure complaints are resolved because of the reputation of the industry in Kansas as a whole.

The Senate Committee made several amendments to the bill, which included:

- Several technical and clarification amendments;
- Adding language stating the Kansas Pet Act would not apply to any farm or kennel which is registered with, and inspected by, the National Greyhound Association. Additionally, the Senate Committee added language clarifying that entering into a contractual agreement for the sharing of information with the National Greyhound Association would fall within the Secretary of Agriculture's statutory powers;
- Simplifying language to allow the Commissioner to inspect licensed premises at his or her discretion;

- Removing sections and references to outdated federal laws;
- Simplifying language to allow for the suspension of a license if a person is behind on remittances;
- Striking references to federal law which required the Department of Agriculture to always have their laws in accordance with existing federal antemortem inspection regulations;
- Adding language requiring adequate records to be kept for animals provided with veterinary care; and
- Adding language ensuring that a license could be suspended if a license or permit holder failed to provide adequate medical care to animals or failed to maintain or provide records of that medical care.

After adopting the amendments to the bill, the Senate Committee placed the contents of SB 414, as amended by the Committee, into HB 2596 and adopted the bill as a Senate Substitute bill. The original contents of HB 2596 were previously removed by the Senate Committee.

The fiscal note provided by the Division of the Budget on the original version of SB 414 states the bill, if passed by the Legislature, would have no fiscal effect on state operations.

Livestock; public livestock markets; Kansas Pet Animal Act; Brands

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