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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Agriculture and Natural Resources

From: The Office of Revisor of Statutes

Date: 03/22/2023

Re: Overview of the Kansas Pet Animal Act

Purpose

K.S.A. 47-1726 states that the Kansas pet animal act “shall license, permit and regulate the conditions of certain premises and facilities within the state of Kansas where animals¹ are maintained, sold or offered or maintained for sale.”

Licenses and Permits

The Kansas pet animal act requires licenses for animal distributors², pet shop operators³, pound or animal shelters⁴, hobby breeders⁵, research facilities⁶, boarding or training kennels⁷,

¹ K.S.A. 47-1701(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.

² K.S.A. 47-1702; 47-1701(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.

³ K.S.A. 47-1703; 47-1701(u). “Pet shop operator” means any person who operates a pet shop. (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 that 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 that sell only fish to verify that only fish are being sold.

⁴ K.S.A. 47-1704; 47-1701(g). “Animal shelter” or “pound” means a facility that 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.

⁵ K.S.A. 47-1719; 47-1701(m). “Hobby breeder premises” means any premises where all or part of 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

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animal breeders⁸, retail breeders⁹, and rescue networks¹⁰. Permits are required for out-of-state distributors¹¹ of dogs or cats. Licenses and permits are provided by the animal health commissioner and expire on September 30 of each year.¹²

Requirements, Penalties, and Fines

The animal health commissioner may refuse to issue or renew or may suspend or revoke any license or permit for any of the reasons listed in K.S.A. 47-1706, including when the feeding, watering, sanitizing and housing practices at the licensee's or permittee's premises are not consistent with the Kansas pet animal act; for failure to provide adequate veterinary medical care to the animals in such licensee or permittee's custody or care; or for failure to maintain or provide documentation of the provision of adequate veterinary medical care 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. Rules and regulations adopted pursuant to the Kansas pet animal act contain detailed requirements for animal care and facilities, including, but

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.

⁶ K.S.A. 47-1720; 47-1701(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.

⁷ K.S.A. 47-1723; 47-1701(p). "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) "Boarding or training kennel operator premises" means the facility of a boarding or training kennel operator.

⁸ K.S.A. 47-1733; 47-1701(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.

⁹ K.S.A. 47-1736; 47-1701(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.

¹⁰ K.A.R. 9-18-4(i). "Rescue network manager" means the person designated by a rescue network to be responsible for the following functions: (1) Approving the membership of each pet animal foster home in the rescue network; (2) carrying out the duties of the rescue network manager under K.A.R. 9-18-27, including the intake of all dogs and cats in the care of the rescue network; (3) maintaining on that person's premises all documentation required by K.A.R. 9-18-27 and 9-18-28, including records pertaining to the adoption, placement, or other disposition of each dog and cat receiving temporary care from the rescue network; and (4) ensuring compliance with this regulation and K.A.R. 9-18-28 by each pet animal foster home belonging to the rescue network.

¹¹ K.S.A. 47-1734; 47-1701(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.

¹² K.S.A. 47-1701(r). "License year" or "permit year" means the 12-month period ending on September 30.

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not limited to: Drainage and waste disposal¹³, sufficient heating and cooling for indoor facilities¹⁴, pest control¹⁵, and opportunity for exercise¹⁶.

Any violation of or failure to comply with any provision of the Kansas pet animal act, or any rule and regulation adopted thereunder, constitutes a class A nonperson misdemeanor.¹⁷ 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 thereunder, may impose on such person a civil penalty not exceeding \$1,000 for each violation or require such person to attend an educational course regarding animals and their care and treatment.¹⁸ Under certain circumstances, animals under the care of such person may be seized and impounded.¹⁹

Inspections

The Kansas pet animal act authorizes the commissioner or the commissioner's authorized trained representatives to conduct certain inspections. These inspections can be divided into four categories: (1) Initial inspections performed prior to receiving a license or permit under the act²⁰; (2) routine inspections²¹; (3) follow-up inspections; and (4) complaint inspections²².

Fees

Each application for issuance or renewal of a license or permit required under the Kansas pet animal act must be accompanied by the appropriate license or permit fee prescribed by the

¹³ K.A.R. 9-18-10(f).

¹⁴ K.A.R. 9-18-11(b).

¹⁵ K.A.R. 9-18-14(c).

¹⁶ K.A.R. 9-18-22.

¹⁷ K.S.A. 47-1715.

¹⁸ K.S.A. 47-1707.

¹⁹ *Id.*

²⁰ K.S.A. 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. [...] Notice need not be given to any person prior to inspection.

²¹ *Id.* at subsection (b). The commissioner or the commissioner's authorized, trained representatives may inspect each premises for which a license or permit has been issued under K.S.A. 47-1701 et seq., and amendments thereto. [...] Refusal of such entry and inspection shall be grounds for suspension or revocation of the license or permit. Notice shall not be given to any person prior to inspection.

²² *Id.* at subsection (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.

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commissioner.²³ A fee of \$200 is charged to any licensee, permittee or applicant who requests an inspection of their premises.²⁴ For any inspection, if the premises is not made available for inspection within 30 minutes of the arrival of the inspector, a \$200 no-contact fee is charged.²⁵ If a premises fails an inspection, such owner, licensee or permittee is required to pay a \$200 re-inspection fee for any subsequent inspection.²⁶ Fees collected under the act are deposited into the animal dealers fee fund and may only be used to administer and enforce the Kansas pet animal act.²⁷

Advisory Board

K.S.A. 47-1725 established the Kansas pet animal advisory board, consisting of 10 members appointed by the governor. The board is required to meet at least once per calendar quarter and has the following duties: (1) To advise the Kansas 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.

The Kansas pet animal advisory board is separate from the Kansas animal health board. The Kansas animal health board consists of nine members appointed by the governor and is required to serve in an advisory capacity to aid the commissioner in determining policies and plans relating to the commissioner's office.²⁸ Additionally, when the position of animal health

²³ K.S.A. 47-1721(a). Such fees shall be as follows:

- (1) Except as provided in paragraphs (5) through (8) and paragraph (10) for a license for premises of a person licensed under public law 91-579, 7 U.S.C. § 2131 et seq., an amount not to exceed \$450;
- (2) except as provided in paragraphs (5) through (8) and paragraph (10) for a license for any other premises, an amount not to exceed \$600;
- (3) for a temporary closing permit, an amount not to exceed \$95;
- (4) for an out-of-state distributor permit, an amount not to exceed \$675;
- (5) for a hobby breeder license or a kennel operator license an amount not to exceed \$250;
- (6) for an animal shelter in a first-class city, as defined in K.S.A. 13-101, and amendments thereto, not to exceed \$400;
- (7) for an animal shelter in a second-class city, as defined in K.S.A. 14-101, and amendments thereto, not to exceed \$335;
- (8) for an animal shelter in a third-class city, as defined in K.S.A. 15-101, and amendments thereto, not to exceed \$285;
- (9) a late fee of \$70 shall be assessed to any person whose permit or license renewal is not renewed prior to October 1; and
- (10) for any premises required to be licensed under the Kansas pet animal act under multiple license categories, payment for only the most expensive license and a \$50 fee for each additional applicable license. Such premises shall comply with the applicable laws and rules and regulations pertaining to each license category.

²⁴ *Id.* at subsection (c).

²⁵ *Id.* at subsection (d)(1).

²⁶ *Id.* at subsection (d)(2).

²⁷ *Id.* at subsection (f).

²⁸ K.S.A. 74-4001; 74-4002; 74-4003.

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commissioner becomes vacant, the animal health board is required to submit three nominations to the secretary and the secretary must pick from one of the nominations to fill the position.²⁹

²⁹ K.S.A. 74-5.119; 75-1901.