

SENATE Substitute for Substitute for HOUSE BILL No. 2468

AN ACT concerning animal diseases; relating to quarantines; concerning garbage feeding; relating to state of disaster emergency; amending K.S.A. 47-611, 47-617, 47-623, 47-1201, 47-1211, 47-1302, 47-1303, 47-1304, 47-1307, 48-904, 48-924 and 48-925 and repealing the existing sections.

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

Section 1. K.S.A. 47-611 is hereby amended to read as follows: 47-611. (a) When the commissioner determines that a quarantine and other regulations ~~is~~ *are* necessary to prevent the spread among domestic animals of any contagious or infectious disease, the commissioner shall notify the governor of such determination, and the governor shall issue a proclamation announcing the boundary of such quarantine and the orders and rules and regulations prescribed by the commissioner, which proclamation shall be published in the Kansas register, except that the commissioner, if the area affected by the quarantine is limited in extent, may dispense with the proclamation of the governor and give such notice as the commissioner shall deem sufficient to make the quarantine effective.

(b) *Upon a determination by the governor that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, the governor shall direct the commissioner to establish a quarantine pursuant to this section.*

(c) *The governor may require and direct the cooperation and assistance of any state agency in enforcing such quarantine or other regulations pursuant to subsection (a) or (b).*

~~(b)~~ (d) The commissioner shall establish such quarantine immediately and shall give and enforce such directions, rules and regulations as to separating, isolating, handling and treating, feeding and caring for such diseased animals, animals exposed to the disease and animals within the quarantine which have not been immediately exposed, as the commissioner deems necessary to prevent those classes of animals from coming into contact with one another.

~~(c)~~ (e) The livestock commissioner *or the commissioner's designee* is hereby authorized and empowered to enter any grounds and premises to carry out the provisions of this act.

Sec. 2. K.S.A. 47-617 is hereby amended to read as follows: 47-617. When any domestic animal, other than dogs and animals affected with foot-and-mouth disease, is killed by order of the commissioner, ~~said the~~ commissioner shall issue to the owner of the animal or animals the certificate showing the number and kind of animals killed, and the amount to which the holder is entitled, ~~and report the same.~~ *Such certificate shall be reported* to the board of county commissioners of the county in which the animal was located, and upon presentation of such certificate to the board of county commissioners, such board shall draw its warrant on the county treasurer for the amount therein stated. ~~Provided, That~~ In case of animals killed or disposed of that are *exposed to or* afflicted with the foot-and-mouth disease, the appraisement shall be conducted in accordance with the *applicable* rules and regulations of ~~the bureau of animal industry of the~~ *an applicable livestock indemnity program of the* United States government and ~~one-half of such appraised values shall be paid by the state of Kansas to the owner of such animal or animals.~~ *Provided further,* ~~That~~ The state of Kansas shall pay all its expenses incurred in that behalf, and shall pay all its ~~men and help~~ *employees* necessarily employed therein; ~~and the director of accounts and reports is hereby directed to draw his warrant on the state treasurer for one-half of the amount of such appraisement.~~

Sec. 3. K.S.A. 47-623 is hereby amended to read as follows: 47-623. ~~That~~ (a) *It shall be unlawful for any person who shall to knowingly;*

(1) Bring into this state any domestic animal which is affected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease ~~shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred nor more than one thousand dollars;~~

(2) *except as provided in paragraph (3), expose any domestic animal in this state to any contagious or infectious disease; or*

(3) *expose any animal in this state to foot-and-mouth disease.*

(b) *Violation of subsection (a)(1) or (a)(2) is a class A nonperson misdemeanor. Violation of subsection (a)(3) is a severity level 4, nonperson felony.*

Sec. 4. K.S.A. 47-1201 is hereby amended to read as follows: 47-1201. As used in this act, except where the context clearly indicates a different meaning:

(a) “Commissioner” means the livestock commissioner of the state of Kansas.

(b) “Person” means any individual, partnership, firm, corporation or association.

(c) “Disposal plant” means a place of business or a location where the carcasses of domestic animals or packing house refuse is purchased, received or unloaded and where such carcasses or refuse ~~either (1) are processed for the purpose of obtaining the hide, skin, grease, residue, or any other byproduct from the animal or refuse, in any way whatsoever; or (2) are fed to hogs, dogs or other animals.~~

(d) “Substation” means a concentration site equipped with at least one storage building and operated and maintained for the temporary deposit or storage of the carcasses of domestic animals pending final delivery of the carcasses to the disposal plant.

(e) “Place of transfer” means a reloading site, authorized for use in direct transferring of carcasses of domestic animals from vehicles making original pickup or loading to a line vehicle for the transportation of the carcasses to the disposal plant.

(f) “Carcasses of domestic animals” means bodies, or any part or portion thereof, of dead domestic animals not slaughtered for human food.

Sec. 5. K.S.A. 47-1211 is hereby amended to read as follows: 47-1211. (a) The operator of a licensed disposal plant shall dispose of the carcasses of domestic animals or packinghouse refuse by complying with the following standards and requirements:

(1) The skinning and dismembering of carcasses of domestic animals shall be performed within the building where the carcasses are processed;

(2) the cooking vats or tanks shall be airtight, except proper escape for live steam;

(3) steam shall be so disposed of as not to be detrimental to public health or safety;

(4) the materials not cooked or entirely consumed by burning within the plant, shall be disposed of ~~(a):~~

(A) By burying to such a depth that no part of such carcass shall be nearer than three ~~(3)~~ feet to the surface of the ground, and shall be covered with quick-lime and with at least three ~~(3)~~ feet of earth; or ~~(b) by feeding to hogs, dogs, or other animals on the premises contiguous to the disposal plant; or (c)~~

(B) in such manner as may be prescribed by rules and regulations adopted by the commissioner;

(5) all carcasses of domestic animals or packinghouse refuse shall be disposed of within ~~forty-eight (48)~~ 48 hours after delivery to the disposal plant;

(6) all carcasses, parts thereof, or refuse under process for marketing shall not be permitted to come in contact with any part of the building or the equipment used in connection with the unloading, skinning, dismembering and grinding of carcasses or refuse as originally received at disposal plant;

(7) the cooking of materials shall be at a temperature of 212° F. (boiling point) for a period of ~~thirty (30)~~ 30 minutes.

(b) The commissioner may issue a release for portions of carcasses of dead animals which are uncooked, or which are cooked for a period shorter than ~~thirty (30)~~ 30 minutes or at a temperature less than 212° F., or both: ~~Provided, That~~ Such release requires that the products so released shall be identified by freely slashing and covering all exposed surfaces of such products with an edible green dye or other such suitable substance as may be approved by the commissioner: ~~And provided,~~ Such products *shall* otherwise meet the requirements of the Kansas feeding stuffs statute, article 10 of chapter 2, Kansas Statutes Annotated.

Sec. 6. K.S.A. 47-1302 is hereby amended to read as follows: 47-1302. (a) *Except as provided in subsection (b) or (c)*, it shall be unlawful for any person, firm, partnership or corporation to feed garbage to animals ~~unless.~~

(b) *Any person, firm, partnership or corporation who on the effective date of this act is registered as a garbage feeding operator may continue*

to feed garbage to animals through October 31, 2001, if such garbage has been heated to a temperature of 212 degrees Fahrenheit (boiling point) for at least 30 minutes as provided by rules and regulations promulgated by the state livestock commissioner. This requirement shall not apply to an individual who feeds such individual's own animals only the garbage obtained from such individual's own household.

(c) Nothing in this section shall prohibit an individual from feeding such individual's own animals only the garbage obtained from such individual's own household.

Sec. 7. K.S.A. 47-1303 is hereby amended to read as follows: 47-1303. (a) It shall be unlawful for the governing body of any city, or any official or employee of a city, to enter into any contract or agreement for the collection or disposal of garbage unless such contract or agreement requires a heating and processing of garbage as required in this act and as required by K.S.A. 47-1302 and amendments thereto, when fed to animals, or (2) such contract or agreement requires a disposal of garbage in accordance with rules and regulations of the state livestock commissioner, when disposed of by other means.

(b) It shall be unlawful for any person to give, sell or transfer garbage to another person, if such person knows that such other person is commercially feeding the garbage to a cloven hoofed animal.

Sec. 8. K.S.A. 47-1304 is hereby amended to read as follows: 47-1304. The state livestock commissioner is hereby authorized to promulgate and enforce all rules and regulations deemed necessary to carry out the provisions of the act of which this section is amendatory and of K.S.A. 47-1306 and 47-1307 and amendments to such sections K.S.A. 47-1301 through 47-1307, and amendments thereto.

Sec. 9. K.S.A. 47-1307 is hereby amended to read as follows: 47-1307. (a) *Except as provided in subsection (g), no person, firm, partnership or corporation shall be allowed to register as a garbage feeding operator.*

(b) It shall be unlawful for any person, firm, partnership or corporation to feed cooked garbage to animals, other than dogs, as permitted under K.S.A. 47-1302, and amendments thereto, unless the operator of such garbage feeding establishment shall have first registered as a garbage feeding operator with the livestock commissioner and shall have paid the annual registration fee under this section for each place where garbage is to be fed.

~~(b)~~ *(c) The livestock commissioner may accept applications for registration on a form to be supplied by the commissioner's office. Upon the acceptance of such application for registration and the receipt of the annual registration fee under this section for each place where garbage is to be fed, the livestock commissioner shall issue to such applicant and operator a certificate of registration for the current operation period. Such certificate shall expire on June 30 each year following the date of issuance of the certificate of registration. The application for registration may be rejected and denied if the applicant does not supply all the information deemed essential by the livestock commissioner and if the applicant's garbage feeding establishment does not meet the requirements of article 13 of chapter 47 of Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder.*

~~(c)~~ *(d) The livestock commissioner shall fix the annual registration fee in such amount as the commissioner deems desirable in interests of public service, but not in an amount of more than \$15 per registration for each garbage feeding establishment.*

~~(d)~~ *(e) The certificate of registration for garbage feeding operators may be revoked by the livestock commissioner whenever the operator of a garbage feeding establishment is found to be operating in violation of law, or rules and regulations adopted thereunder, or in an unsanitary manner. Any such operator shall first be given notice of hearing and an opportunity to appear and be heard in defense of any proceeding for the revocation of any certificate of registration in accordance with the provisions of the Kansas administrative procedure act.*

~~(e)~~ *(f) The livestock commissioner shall remit all moneys received by or for the commissioner under article 13 of chapter 47 of Kansas Statutes Annotated and amendments thereto to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall*

deposit the entire amount thereof in the state treasury and the same shall be credited to the animal disease control fund.

~~(g)~~ (g) (1) *Any person, firm, partnership or corporation who on the effective date of this act is registered as a garbage feeding operator may continue to be registered through October 31, 2001 as a garbage feeding operator if such operator is in compliance with all applicable laws and rules and regulations concerning such garbage feeding establishment.*

(2) *The provision of subsections (b) through (f) shall apply only to those validly registered garbage feeding operators through October 31, 2001.*

Sec. 10. K.S.A. 48-904 is hereby amended to read as follows: 48-904. As used in this act:

(a) “Emergency management” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters;

(b) “adjutant general” means the adjutant general of the state of Kansas;

(c) “division of emergency management” means the division of emergency management created in the office of the adjutant general by K.S.A. 48-905, and amendments thereto;

(d) “disaster” means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, *contagious or infectious disease*, air contamination, blight, drought, infestation, explosion, riot or hostile military or paramilitary action;

(e) “unorganized militia” means all able-bodied male and female persons between the ages of 16 and 50 years;

(f) “state disaster emergency plan” means the plan prepared and maintained by the division of emergency management pursuant to K.S.A. 48-926, and amendments thereto;

(g) “local and interjurisdictional disaster emergency plans” means all disaster emergency plans developed and promulgated by county, city and interjurisdictional disaster agencies pursuant to K.S.A. 48-929, and amendments thereto; and

(h) “hazardous material” means any substance or material in a quantity or form which may be harmful or injurious to the health and safety of humans, animals, crops or property when released into the environment. Hazardous material includes, but is not limited to, explosives, radioactive materials, disease-causing agents, flammable liquids, solids or gases, combustible liquids, poisons, poisonous gases, oxidizing materials, corrosive materials, irritants, nonflammable gases, cryogenics and blasting agents.

Sec. 11. K.S.A. 48-924 is hereby amended to read as follows: 48-924.

(a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) (1) The governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency.

(2) *In addition to or instead of the proclamation authorized by K.S.A. 47-611, and amendments thereto, the governor, upon a finding or when notified pursuant to K.S.A. 47-611, and amendments thereto, that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, may issue a proclamation declaring a state of disaster emergency.*

(3) The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but *except as provided in paragraph (4)*, no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be ex-

tended once for a specified period not to exceed 30 days beyond such 15-day period.

(4) *If the state of disaster emergency is proclaimed pursuant to paragraph (2), the governor shall terminate the state of disaster emergency by proclamation within 15 days, unless ratified by concurrent resolution of the legislature, except that when the legislature is not in session and upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended for a specified period not to exceed 30 days. The state finance council may authorize additional extensions of the state of disaster emergency by a unanimous vote of the legislative members thereof for specified periods not to exceed 30 days each. Such state of disaster emergency shall be terminated on the 15th day of the next regular legislative session following the initial date of the state of disaster emergency unless ratified by concurrent resolution of the legislature.*

(5) At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency.

(6) Any proclamation declaring or terminating a state of disaster emergency which is issued under this subsection shall indicate the nature of the disaster, the area or areas threatened or affected by the disaster and the conditions which have brought about, or which make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency management, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, an officer specified in K.S.A. 48-1204 and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection (a). During a state of disaster emergency declared pursuant to this subsection, such officer may exercise the powers conferred upon the governor by K.S.A. 48-925, and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of any constitutional disability of the governor, the authority of an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of the office. Any state of disaster emergency and any actions taken by an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the political subdivisions or areas affected by the proclamation. Such proclamation shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608, and amendments thereto, that conditions indicative of drought exist, shall be authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.

Sec. 12. K.S.A. 48-925 is hereby amended to read as follows: 48-925. (a) During any state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, the governor shall be commander-in-chief of

the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement, embodied in appropriate executive orders or in rules and regulations of the adjutant general, but nothing herein shall restrict the authority of the governor to do so by orders issued at the time of a disaster.

(b) Under the provisions of this act and for the implementation thereof, the governor may issue orders and proclamations which shall have the force and effect of law during the period of a state of disaster emergency declared under subsection (b) of K.S.A. 48-924, and amendments thereto, and which orders and proclamations shall be null and void thereafter unless ratified by concurrent resolution of the legislature. Such orders and proclamations may be revoked at any time by concurrent resolution of the legislature.

(c) During a state of disaster emergency declared under K.S.A. 48-924, and amendments thereto, and in addition to any other powers conferred upon the governor by law, the governor may:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders or rules and regulations of any state agency which implements such statute, if strict compliance with the provisions of such statute, order or rule and regulation would prevent, hinder or delay in any way necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision as reasonably necessary to cope with the disaster;

(3) transfer the supervision, personnel or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities;

(4) subject to any applicable requirements for compensation under K.S.A. 48-933, and amendments thereto, commandeer or utilize any private property if the governor finds such action necessary to cope with the disaster;

(5) direct and compel the evacuation of all or part of the population from any area of the state stricken or threatened by a disaster, if the governor deems this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(6) prescribe routes, modes of transportation and destinations in connection with such evacuation;

(7) control ingress and egress of *persons and animals* to and from a disaster area, the movement of *persons and animals* within the area and the occupancy *by persons and animals* of premises therein;

(8) suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles;

(9) make provision for the availability and use of temporary emergency housing;

(10) require and direct the cooperation and assistance of state and local governmental agencies and officials; and

(11) perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.

(d) The governor shall exercise the powers conferred by subsection (c) by issuance of orders under subsection (b). The adjutant general, subject to the direction of the governor, shall administer such orders.

Sec. 13. K.S.A. 47-611, 47-617, 47-623, 47-1201, 47-1211, 47-1302, 47-1303, 47-1304, 47-1307, 48-904, 48-924 and 48-925 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.