

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1471

By: Armes

4  
5  
6 AS INTRODUCED

7 An Act relating to agriculture; amending 2 O.S. 2001,  
8 Section 1-3, as last amended by Section 1, Chapter  
9 292, O.S.L. 2005 and Section 1, Chapter 180, O.S.L.  
10 2009 (2 O.S. Supp. 2010, Sections 1-3 and 2-4c),  
11 which relate to the Oklahoma Agricultural Code;  
12 defining term; mandating the Department maintain a  
13 Registry of Reproductive Services Businesses; listing  
14 registration criteria; requiring prescription drugs  
15 be dispensed under certain conditions; amending 59  
16 O.S. 2001, Sections 698.2 and 698.12, as last amended  
17 by Sections 1 and 3, Chapter 112, O.S.L. 2010 (59  
18 O.S. Supp. 2010, Sections 698.2 and 698.12), which  
19 relate to the Oklahoma Veterinary Practice Act;  
20 defining terms; modifying procedures that are not  
21 prohibited; and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 2 O.S. 2001, Section 1-3, as last  
24 amended by Section 1, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2010,  
Section 1-3), is amended to read as follows:

Section 1-3. For the purposes of the Oklahoma Agricultural  
Code, unless the context indicates otherwise:

1       1. "Animal husbandry" means the branch of agriculture and  
2 animal science concerned with the appearance, breeding, care,  
3 feeding, housing, hygiene, sanitation, training, and marketing of  
4 livestock and exotic livestock as defined in Section 6-290.3 of this  
5 title, and such evolving practices designated by rule of the  
6 Department pursuant to its policymaking authority;

7       2. "Authorized agent" means a person who has been authorized by  
8 the State Board of Agriculture to act on behalf of the Board in  
9 making investigations, inspections, performing other services, or  
10 doing any particular act or acts which have been vested by the  
11 Oklahoma Agricultural Code in the Board. A written or printed  
12 commission signed by the President of the Board shall be proof that  
13 the holder has lawful authority to act on behalf of the Board in  
14 implementing the Oklahoma Agricultural Code;

15       ~~2.~~ 3. "Board" means the State Board of Agriculture;

16       ~~3.~~ 4. "Code" means the Oklahoma Agricultural Code;

17       ~~4.~~ 5. "Department" means the Oklahoma Department of  
18 Agriculture, Food, and Forestry and its employees, officers, and  
19 divisions. Whenever the name "Department of Agriculture" appears in  
20 any law, contract or other document, it shall be deemed to refer to  
21 the Oklahoma Department of Agriculture, Food, and Forestry;

22       ~~5.~~ 6. "Director" means the ~~Director~~ director of a division  
23 established in the Oklahoma Department of Agriculture, Food, and  
24 Forestry;

1       ~~6.~~ 7. "License" means a written document issued by the Board  
2 granting authority to a person to engage in a business, occupation,  
3 or activity;

4       ~~7.~~ 8. "Livestock" or "animals" means any cattle, bison, horses,  
5 sheep, goats, asses, mules, swine, domesticated rabbits, and  
6 chickens, turkeys, and other domesticated fowl, and any animal or  
7 bird in captivity;

8       ~~8.~~ 9. "Permit" means a written document issued by the Board  
9 giving consent for a person to engage in an activity;

10       ~~9.~~ 10. "Person" means the state, any municipality, political  
11 subdivision, institution, individual, public or private corporation,  
12 partnership, association, firm, company, public trust, joint-stock  
13 company, trust, estate, state or federal agency, other governmental  
14 entity, or any other legal entity or an agent, employee,  
15 representative, assignee or successor thereof;

16       ~~10.~~ 11. "President" means the President of the State Board of  
17 Agriculture. The President of the State Board of Agriculture shall  
18 also be designated as the Commissioner of Agriculture;

19       ~~11.~~ 12. "Producer" means any person planting, raising, growing,  
20 or harvesting agricultural products;

21       ~~12.~~ 13. "Quarantine" means a written document issued by the  
22 Board to restrict the movement of animals, birds, plants, or  
23 agricultural commodities into or out of a specified area for the  
24 control or prevention of diseases or pests; and

1       ~~13.~~ 14. "Stop sale order" or "stop use order" means a written  
2 or printed order signed by the President or authorized agent of the  
3 Board, prohibiting the sale, offering for sale, exposure for sale,  
4 or use of any agricultural product, article, device, service, or  
5 commodity covered by the Oklahoma Agricultural Code.

6       SECTION 2.       AMENDATORY       Section 1, Chapter 180, O.S.L.  
7 2009 (2 O.S. Supp. 2010, Section 2-4c), is amended to read as  
8 follows:

9       Section 2-4c. A. Except as may otherwise be provided by law,  
10 the Oklahoma Department of Agriculture, Food, and Forestry shall be  
11 the state entity empowered to implement the policy of the state  
12 regarding the care and handling of livestock in this state.

13       B. The Department shall maintain a Registry of Reproductive  
14 Services Businesses, as defined in Section 698.2 of Title 59 of the  
15 Oklahoma Statutes.

16       1. To be registered, the employee or employees of the  
17 Reproductive Services Business shall:

18       a. complete:

19       (1) at least six (6) semester hours of reproductive  
20 physiology and endocrinology course from an  
21 accredited college or university, or

22       (2) courses approved by the Department for embryo  
23 transfer, pregnancy diagnosis by ultrasound and  
24 fetal sexing, and

1           b. demonstrate professional competence in the field by  
2           either:

3           (1) if a Reproductive Services Business has performed  
4           embryo transfer work on or before January 1,  
5           2011, submission of a signed and notarized  
6           affidavit from two veterinarians licensed by the  
7           State Board of Veterinary Medical Examiners  
8           verifying that the Reproductive Services Business  
9           is qualified through experience and training, or

10          (2) if a Reproductive Services Business has not  
11          performed embryo transfer work on or before  
12          January 1, 2011, passage of a written examination  
13          and practical examination given or approved by  
14          the Department.

15          2. In services provided by a registered Reproductive Services  
16          Business, any prescription drugs shall be prescribed and dispensed  
17          on the order of a licensed veterinarian who has an existing  
18          veterinarian-client-patient relationship as defined by Section 698.2  
19          of Title 59 of the Oklahoma Statutes and shall be administered in  
20          accordance with the Oklahoma Veterinary Practice Act.

21          C. No municipality, county, or other political subdivision of  
22          this state shall enact or enforce any order, ordinance, or  
23          regulation concerning the care and handling of livestock within its  
24          jurisdiction that is more restrictive than rules promulgated by the

1 Oklahoma Department of Agriculture, Food, and Forestry concerning  
2 the care and handling of livestock or Section 1685 of Title 21 of  
3 the Oklahoma Statutes. Ordinances or regulations by municipalities  
4 pertaining to land use or to human health or safety shall not be  
5 considered to constitute livestock care and handling.

6 SECTION 3. AMENDATORY 59 O.S. 2001, Section 698.2, as  
7 last amended by Section 1, Chapter 112, O.S.L. 2010 (59 O.S. Supp.  
8 2010, Section 698.2), is amended to read as follows:

9 Section 698.2 As used in the Oklahoma Veterinary Practice Act:

- 10 1. "Board" means the State Board of Veterinary Medical  
11 Examiners;
- 12 2. "Animal" means any animal other than humans and includes,  
13 but is not limited to, fowl, fish, birds and reptiles, wild or  
14 domestic, living or dead;
- 15 3. "Veterinarian" means a person who has received a degree in  
16 veterinary medicine or its equivalent from a school of veterinary  
17 medicine;
- 18 4. "Licensed veterinarian" means any veterinarian who holds an  
19 active license to practice veterinary medicine in this state;
- 20 5. "School of veterinary medicine" means any veterinary college  
21 or division of a university or college that offers the degree of  
22 doctor of veterinary medicine or its equivalent, which conforms to  
23 the standards required for accreditation by the American Veterinary  
24

1 Medical Association (AVMA) and which is recognized and approved by  
2 the Board;

3 6. "Veterinary technician" means a person who has graduated  
4 from a program accredited by the American Veterinary Medical  
5 Association, or its equivalent which is recognized and approved by  
6 the Board, and who has passed the examination requirements set forth  
7 by the Board, is certified to practice under the direct supervision  
8 of a licensed veterinarian. For the purpose of the Oklahoma  
9 Veterinary Practice Act, "registered veterinary technician (RVT)"  
10 will be used interchangeably with veterinary technician who is  
11 certified pursuant to Sections 698.21 through 698.26 of this title;

12 7. "Veterinary technologist" means a person who has  
13 successfully graduated from an AVMA-accredited bachelor degree  
14 program of veterinary technology, or its AVMA equivalent;

15 8. "Veterinary assistant" means an individual who may perform  
16 the duties of a veterinary technician or veterinary technologist,  
17 however, has not graduated from an AVMA-accredited technology  
18 program or its equivalent, and has not been certified by the Board;

19 9. "Veterinary technology" means the science and art of  
20 providing all aspects of professional medical care, services, and  
21 treatment for animals with the exception of diagnosis, prognosis,  
22 surgery, and prescription of any treatments, drugs, medications, or  
23 appliances, where a valid veterinarian-client-patient relationship  
24 exists;

1 10. "Direct supervision" means:

2 a. directions have been given to a veterinary technician,  
3 nurse, laboratory technician, intern, veterinary  
4 assistant or other employee for medical care following  
5 the examination of an animal by the licensed  
6 veterinarian responsible for the professional care of  
7 the animal, or

8 b. that, under certain circumstances following the  
9 examination of an animal by a licensed veterinarian  
10 responsible for the professional care of the animal,  
11 the presence of the licensed veterinarian on the  
12 premises in an animal hospital setting or in the same  
13 general area in a range setting is required after  
14 directions have been given to a veterinarian who has a  
15 certificate issued pursuant to Section 698.8 of this  
16 title;

17 11. "License" means authorization to practice veterinary  
18 medicine granted by the Board to an individual found by the Board to  
19 meet certain requirements pursuant to the Oklahoma Veterinary  
20 Practice Act or any other applicable statutes;

21 12. "Supervised Doctor of Veterinary Medicine Certificate"  
22 means authorization to practice veterinary medicine with certain  
23 limitations or restrictions on that practice, set by the Board, or  
24 authorization to perform certain enumerated functions peripheral to

1 the practice of veterinary medicine as set by the Board and has a  
2 certificate issued pursuant to Section 698.8 of this title;

3 13. "Veterinarian-client-patient relationship" means when:

- 4 a. the licensed veterinarian has assumed the  
5 responsibility for making medical judgments regarding  
6 the health of an animal or animals and the need for  
7 medical treatment, and the client, owner or other  
8 caretaker has agreed to follow the instructions of the  
9 licensed veterinarian, and
- 10 b. there is sufficient knowledge of the animal or animals  
11 by the licensed veterinarian to initiate at least a  
12 general or preliminary diagnosis of the medical  
13 condition of the animal or animals in that:
- 14 (1) the licensed veterinarian has recently seen or is  
15 personally acquainted with the keeping and care  
16 of the animal or animals, or
- 17 (2) by the licensed veterinarian has made medically  
18 necessary and timely visits to the premises where  
19 the animal or animals are kept or both, and
- 20 c. the licensed veterinarian is readily available for  
21 follow-up in case of adverse reactions or failure of  
22 the regimen of therapy, or has arranged for emergency  
23 medical coverage, and
- 24

1           d. the licensed veterinarian's actions would conform to  
2           applicable federal law and regulations;

3           14. "Veterinary premises" means any facility where the practice  
4 of veterinary medicine occurs, including, but not limited to, a  
5 mobile unit, mobile clinic, outpatient clinic, satellite clinic,  
6 public service outreach of a veterinary facility, or veterinary  
7 hospital or clinic. The term "veterinary premises" shall not  
8 include the premises of a client of a licensed veterinarian or  
9 research facility;

10           15. "Veterinary prescription drugs" means such prescription  
11 items as are in the possession of a person regularly and lawfully  
12 engaged in the manufacture, transportation, storage, or wholesale or  
13 retail distribution of veterinary drugs and the federal Food and  
14 Drug Administration-approved human drugs for animals which because  
15 of their toxicity or other potential for harmful effects, or method  
16 of use, or the collateral measures necessary for use, are labeled by  
17 the manufacturer or distributor in compliance with federal law and  
18 regulations to be sold only to or on the prescription order or under  
19 the supervision of a licensed veterinarian for use in the course of  
20 professional practice. Veterinary prescription drugs shall not  
21 include over-the-counter products for which adequate directions for  
22 lay use can be written;

23           16. "ECFVG certificate" means a certificate issued by the  
24 American Veterinary Medical Association Education Commission for

1 Foreign Veterinary Graduates, indicating that the holder has  
2 demonstrated knowledge and skill equivalent to that possessed by a  
3 graduate of an accredited or approved college of veterinary  
4 medicine;

5 17. "Executive Director" means the Executive Director of the  
6 State Board of Veterinary Medical Examiners or the authorized  
7 representative of such official;

8 18. "Telemedicine" shall mean the transmission of diagnostic  
9 images such as, but not limited to, radiographs, ultrasound,  
10 cytology, endoscopy, photographs and case information over ordinary  
11 or cellular phone lines to a licensed veterinarian or board-  
12 certified medical specialist for the purpose of consulting regarding  
13 case management with the primary care licensed veterinarian who  
14 transmits the cases;

15 19. "Person" means any individual, firm, partnership,  
16 association, joint venture, cooperative, corporation, or any other  
17 group or combination acting in concert, and whether or not acting as  
18 a principal, trustee, fiduciary, receiver, or as any other kind of  
19 legal or personal representative, or as the successor in interest,  
20 assignee, agent, factor, servant, employee, director, officer,  
21 fictitious name certificate, or any other representative of such  
22 person;

23 20. "Food animal" means any mammalian, poultry, fowl, fish, or  
24 other animal that is raised primarily for human food consumption;

1        21. "Surgery" means the branch of veterinary science conducted  
2 under elective or emergency circumstances, which treats diseases,  
3 injuries and deformities by manual or operative methods including,  
4 but not limited to, cosmetic, reconstructive, ophthalmic,  
5 orthopedic, vascular, thoracic, and obstetric procedures. The  
6 provisions in Section 698.12 of this title shall not be construed as  
7 surgery;

8        22. "Abandonment" means to forsake entirely or to neglect or  
9 refuse to provide or perform the legal obligations for care and  
10 support of an animal by its owner, or the owner's agent.  
11 Abandonment shall constitute the relinquishment of all rights and  
12 claims by the owner to an animal;

13        23. "Animal chiropractic diagnosis and treatment" means  
14 treatment that includes vertebral subluxation complex (vcs) and  
15 spinal manipulation of nonhuman vertebrates. The term "animal  
16 chiropractic diagnosis and treatment" shall not be construed to  
17 allow the:

- 18            a. use of x-rays,
- 19            b. performing of surgery,
- 20            c. dispensing or administering of medications, or
- 21            d. performance of traditional veterinary care;

22        24. "Animal euthanasia technician" means an employee of a law  
23 enforcement agency, an animal control agency, or animal shelter that  
24 is recognized and approved by the Board, who is certified by the

1 Board and trained to administer sodium pentobarbital to euthanize  
2 injured, sick, homeless or unwanted domestic pets and other animals;  
3 ~~and~~

4 25. "Teeth floating", as provided by a nonveterinary equine  
5 dental care provider, means the removal of enamel points and the  
6 smoothing, contouring and leveling of dental arcades and incisors of  
7 equine and other farm animals. It shall not include dental  
8 procedures on canines and felines;

9 26. "Animal husbandry" means the branch of agriculture and  
10 animal science concerned with the appearance, breeding, care,  
11 feeding, housing, hygiene, sanitation, training, and marketing of  
12 livestock and exotic livestock as defined in Section 6-290.3 of this  
13 title, and such evolving practices designated by rule of the  
14 Department pursuant to its policymaking authority;

15 27. "Exotic livestock" means animals of the families bovidae,  
16 cervidae and antilocapridae, birds of the ratite group or such other  
17 animal designated by rule of the Oklahoma Department of Agriculture,  
18 Food, and Forestry;

19 28. "Livestock" means any cattle, bison, horses, sheep, goats,  
20 asses, mules, swine, domesticated rabbits, and chickens, turkeys,  
21 and other domesticated fowl, exotic livestock and food animals, but  
22 does not include canines and felines; and

23 29. "Reproductive Services Business" means any nonveterinarian  
24 individual or business entity registered by the Department of

1 Agriculture, Food, and Forestry that performs, for a fee, the  
2 following types of nonsurgical acts on livestock, not including  
3 horses and mules:

- 4 a. collects, processes, freezes, stores, thaws,  
5 transfers, or distributes embryos or oocytes,
- 6 b. performs pregnancy diagnosis or prognosis by  
7 ultrasound, or
- 8 c. conducts fetal sexing.

9 SECTION 4. AMENDATORY 59 O.S. 2001, Section 698.12, as  
10 last amended by Section 3, Chapter 112, O.S.L. 2010 (59 O.S. Supp.  
11 2010, Section 698.12), is amended to read as follows:

12 Section 698.12 The Oklahoma Veterinary Practice Act shall not  
13 be construed to prohibit:

14 1. Acts of animal husbandry, including dehorning, branding,  
15 tagging or notching ears, teeth floating, hoof care and farriery,  
16 pregnancy checking, collecting semen, preparing semen, freezing  
17 semen, castrating, worming, vaccinating, injecting or artificial  
18 insemination of farm animals; ~~or the~~ acts or conduct of a person  
19 advising with respect to nutrition, feeds or feeding or acts that  
20 may be performed by a registered Reproductive Services Business;

21 2. The owner of an animal or the owner's employees or helpers  
22 from caring for or treating animals belonging to the owner;  
23 provided, that, ~~the~~ acts of the owner's employees or helpers  
24 otherwise prohibited by the Oklahoma Veterinary Practice Act are

1 only an incidental part of the employment duties and for which no  
2 special compensation is made;

3 3. Acts of a person in lawful possession of an animal for some  
4 other purpose than practicing veterinary medicine; provided, that,  
5 no charge may be made or included in any other charge or fee or  
6 adjustment otherwise made of any charge or fee for acts performed  
7 pursuant to this subsection unless the acts are performed by a  
8 licensed veterinarian as provided by the Oklahoma Veterinary  
9 Practice Act;

10 4. Acts of auction markets and other shippers of food animals  
11 in preparing such animals for shipment;

12 5. Acts of a person who is a student in good standing in a  
13 veterinary school, in performing duties or functions assigned by  
14 the student's instructors, or working under the direct supervision  
15 of a licensed veterinarian for each individual case and acts  
16 performed by an instructor or student in a school of veterinary  
17 medicine recognized by the Board and performed as a part of the  
18 educational and training curriculum of the school under the direct  
19 supervision of faculty. The unsupervised or unauthorized practice  
20 of veterinary medicine even though on the premises of a school of  
21 veterinary medicine is prohibited;

22 6. Acts of any employee in the course of employment by the  
23 federal government or acts of a veterinarian practicing on property  
24 and persons outside the jurisdiction of the State of Oklahoma;

1           7. A veterinarian currently licensed in another state from  
2 consulting with a licensed veterinarian of this state;

3           8. Acts of ~~vocational-agriculture~~ agricultural education  
4 instructors or students while engaged in regular ~~vocational-~~  
5 ~~agriculture~~ agricultural education instruction in programs approved  
6 by the Oklahoma Department of Career and Technology Education;  
7 provided that said acts are under the supervision of instructors and  
8 are carried out in the usual course of instruction and not as  
9 independent practice by an unlicensed veterinarian without  
10 supervision;

11           9. Any person employed by a licensed veterinarian who is  
12 assisting with the professional duties of the licensed veterinarian  
13 and who is under the direct supervision of the licensed veterinarian  
14 from administering medication or rendering auxiliary or supporting  
15 assistance under the direct supervision of such licensed  
16 veterinarian, provided that the practice is conducted in compliance  
17 with all laws of this state and rules of this Board;

18           10. Any chiropractic physician licensed in this state who is  
19 certified by the Board of Chiropractic Examiners to engage in animal  
20 chiropractic diagnosis and treatment from practicing animal  
21 chiropractic diagnosis and treatment;

22           11. Any chiropractic physician licensed in this state who is  
23 not certified to practice animal chiropractic diagnosis and  
24 treatment by the Board of Chiropractic Examiners from providing

1 chiropractic treatment to an animal referred to such chiropractic  
2 physician by a licensed veterinarian;

3 12. Any individual that is certified in animal massage therapy  
4 and acquires liability insurance from engaging in animal massage  
5 therapy after referral from a licensed veterinarian; or

6 13. Any individual that is certified by the State Board of  
7 Veterinary Medical Examiners and pays a certification fee of Two  
8 Hundred Dollars (\$200.00) under subsection A of Section 4 of this  
9 act from engaging in nonveterinary equine dental care.

10 SECTION 5. This act shall become effective November 1, 2011.

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