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KAJIADO COUNTY BILLS, 2022

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THE KAJIADO COUNTY ANIMAL WELFARE BILL 2022

A Bill for

AN ACT of the Kajiado County Assembly to make provision on welfare of animals; and for connected purposes.

ENACTED by the County Assembly of Kajiado, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Kajiado County Animal Welfare Act, 2022.

Interpretation

2. In this part, unless the context otherwise requires—

“animal” includes all stock, ruminating animals, dogs, cats, rabbits, captive wild animals and any other animal which the Governor may, by notice in the County Gazette, declare to be an animal to which this Act shall apply;

“animal protection officer” means any officer charged with the responsibility of the protection of animals in the county by the county executive committee member;

“abandoned animal” means an animal that—

- (a) is apparently ownerless and roaming at large;
- (b) is found on rented premises after the expiration or termination of the tenancy agreement;
- (c) is found on premises after the owner has sold or vacated the premises; or
- (d) by agreement between the animal's owner and another person, has been left in the care of the other person and has not been retrieved from the other person for more than four days after the agreed-upon retrieval time;

“care” includes the provision of food, water, shelter and medical attention to an animal;

“caregiver” means a person or organization selected by an animal protection officer to provide care to an animal that has been seized or taken into custody;

“commercial animal assembling station” means any place where commercial animals are assembled for shipment by any form of transportation;

“commercial animal market” means a stockyard or auction mart that is operated as a public market for the purchase or sale of commercial animals—

- (a) horses, cattle, sheep, swine and live poultry;
- (b) animals of a type usually raised for meat production or the production of products from the animals, and includes breeding stock of such animals, and;
- (c) species or types of animals designated in the regulations as commercial animals;

“companion animal” means an animal that is not a commercial animal;

“costs of care” means any amount established in the regulations to be costs of care or, where no such amount is established, any reasonable and necessary costs incurred under this Act to seize, take custody of, transport, provide care to, sell, or destroy an animal;

“director” means the person appointed by the County Executive member as the director for the purpose of this Act;

“county executive member” means the County Executive member responsible for matters relating to Agriculture, Livestock, Fisheries; and

“needless suffering” means suffering that is not inevitable or intrinsic to an accepted activity;

“owner” includes—

- (a) a person having possession or control of an animal or occupying premises containing an animal; and
- (b) a person who possessed or controlled an animal, or occupied premises containing the animal, immediately before it was seized or taken into custody under this Act;

“person” includes a includes a company, association or other body whether incorporated or unincorporated;

“vehicle” includes any motor vehicle, railway carriage or carriage; and

“veterinarian” means a veterinarian employed in the service of the county government.

PART II—PROTECTION OF ANIMALS

Duties of Owner

3. (1) A person who has ownership, possession or control of an animal shall—

- (a) ensure that the animal has an adequate source of food and water;
- (b) provide the animal with adequate medical attention when the animal is wounded or ill;
- (c) provide the animal with reasonable protection from injurious heat or cold; and
- (d) not confine the animal to an enclosure or area with—
 - (i) inadequate space;
 - (ii) unsanitary conditions;
 - (iii) inadequate ventilation or lighting; or
 - (iv) without providing an opportunity for exercise,so as to significantly impair the animal's health or well-being.

(2) A person shall not inflict upon an animal any suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or welfare.

(3) Subsection (1) does not apply where the suffering, injury, harm, anxiety or distress is caused by a treatment, process, or condition that occurs in the course of an accepted activity set out in section 4.

Accepted Activities

4. (1) Subject to subsection (2), an accepted activity includes—

- (a) agricultural uses of animals;
- (b) exhibitions and fairs;
- (c) zoological displays;
- (d) animal slaughter;
- (e) medical care;
- (f) animal discipline and training;
- (g) protection of people or property;
- (h) sporting events;
- (i) fishing and hunting;
- (j) trapping;
- (k) research and teaching involving animals;

- (l) pest control;
 - (m) control of predators;
 - (n) euthanasia of animals; or
 - (o) any other activity designated by the regulations as an accepted activity.
- (2) An activity is an accepted activity under subsection (1) only if it is carried out in a manner consistent—
- (a) with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
 - (b) with generally accepted practices or procedures for such activity, and that does not cause needless suffering; or
 - (c) that is otherwise reasonable in the circumstances, and that does not cause needless suffering; or
 - (d) is not a practice or procedure specified as prohibited in the regulations.

Prohibited Practices and Procedures

5. (1) No person shall engage in a practice or procedure specified as prohibited in the regulations.

(2) No person shall load or transport an animal, or permit an animal to be loaded or transported, in a vehicle if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or would suffer unduly during transport.

(3) Any person who commits any of the acts mentioned in subsection (2) of this section shall be liable on conviction to a fine of fifty thousand shillings or imprisonment of six months.

(4) Despite subsection (2), as long as the animal is loaded and transported in a proper manner, a person may transport it to or from a veterinary clinic or the nearest suitable place to obtain medical attention.

(5) No person shall, for the purpose of resale or further shipment—

(a) unload a commercial animal, or permit a commercial animal to be unloaded, from a vehicle; or

(b) accept, or permit a commercial animal to be accepted;

at a commercial animal market or commercial animal assembling station if, by reason of infirmity, illness, injury, fatigue or any other cause, the animal is unable to stand or is suffering unduly.

(6) When a commercial animal is not accepted under subsection (4)(b), the operator of the commercial animal market or commercial animal assembling station shall promptly—

- (a) notify the Director that the animal was not accepted; and
- (b) provide any information respecting the matter that the Director requests.

(7) A veterinarian who believes on reasonable grounds that an animal has been or is subject to neglect or abuse that compromises the animal's health, other than in the course of an accepted activity, shall promptly—

- (a) report his or her belief to the director; and
- (b) provide any information respecting the matter that the director requests.

PART III — INTERVENTION

Animals in Distress

6. (1) Subject to subsection (2), an animal is in distress if it is—

- (a) wounded or injured;
- (b) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;
- (c) subjected to conditions that cause the animal to suffer acute pain;
- (d) not provided food and water sufficient to maintain the animal in a state of good health;
- (e) not provided appropriate medical attention when the animal is wounded or ill;
- (f) unduly exposed to cold or heat; or
- (g) subjected to conditions that will, over time, significantly impair the animal's health or well-being, including—
 - (i) confinement in an area of insufficient space;
 - (ii) confinement in unsanitary conditions;
 - (iii) confinement without adequate ventilation or lighting;
 - (iv) not being allowed an opportunity for adequate exercise; and
 - (v) conditions that cause the animal extreme anxiety or distress.

(2) An animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of an accepted activity.

Appointment of County Officers

7. (1) The County Service Board, after consultation with the County Executive Member Board may, on such terms and conditions as the County Executive Member may specify, appoint any person for the implementation of this Act.

(2) For purposes of subsection (1), the County Executive Member may, by regulations, prescribe the qualifications for different categories of inspectors and veterinarians.

Entry and inspection

8. (1) A person duly authorized in writing in that behalf by the county executive member may, at any reasonable time and where reasonably required to administer or determine compliance with this Act,

- (a) enter and inspect any facility, premises or other place, or stop and inspect any vehicle, that is being operated in the course of an activity—
 - (i) for which a person is or is required to be licensed under this Act;
 - (ii) that purports to be an accepted activity under subsection 4(1) and in respect of which a standard or code of conduct, criteria, practice or procedure has been specified as acceptable in the regulations;
 - (iii) that relates to the operation of a commercial animal market or commercial animal assembling station; or
 - (iv) that involves a commercial animal;
- (b) open any receptacle, package, cage or thing that the animal protection officer believes on reasonable grounds is being kept in the course of that activity;
- (c) view any animal or conduct an examination of any animal in the place or vehicle, whether or not the animal is apparently in distress;
- (d) conduct any test, take any sample or make any other examination of the place or vehicle or of any animal, substance or thing, including the carcass of a dead animal, that is in or has been in the place or vehicle;
- (e) inspect any licence, record or other information;
- (f) make a copy, or obtain a printout or an electronically readable format, of any licence, record or other information in the place or vehicle; and

- (g) remove any licence, record or information for copying, subject to its being returned as soon as reasonably practicable.

(2) Without restricting the generality of subsection (1) with respect to inspection of facilities, premises or other places, or vehicles containing companion animals, an animal protection officer may, at any reasonable time and where reasonably required to determine compliance with this Act—

- (a) enter and inspect any facility, premises or other place that is not a dwelling place, or stop and inspect any vehicle, in which the animal protection officer believes on reasonable grounds there is a companion animal in distress; and

- (b) view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

- (3) An animal protection officer may, at any reasonable time and where reasonably required to determine whether an animal is in distress—

- (a) enter onto the land on which a dwelling place is located;

- (b) require any person in the dwelling place to produce the animal for viewing or examination; and

- (c) once the animal is produced, view the animal or conduct such examination of the animal as may be required to determine whether or not it is in distress.

(4) The power to require production of an animal under subsection (6) does not restrict or extinguish the power to conduct an inspection under subsection (1) with respect to any activity referred to in section (1)(a) that occurs inside a dwelling place.

(5) A person in a dwelling place who is required to produce an animal for viewing or examination under subsection (6) shall immediately produce the animal.

(6) A magistrate who is satisfied by information on oath that there are reasonable grounds to believe that there is an animal in distress in a dwelling place may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the dwelling place for the animal and to take any action in relation to the animal as is authorized under this Act with respect to an animal in distress.

(7) A magistrate who is satisfied by information on oath that there are reasonable grounds to believe that—

- (a) an offence under this Act has been committed or is being committed; and

- (b) there is to be found in any place or vehicle an animal or thing that will afford evidence of the offence,

may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter and search the place or vehicle for the animal or thing and to seize it and to bring it before a justice or to report on it to a justice to be dealt with according to law.

(8) An animal protection officer may take any action authorized under subsection (9) or (10) without a warrant if conditions for obtaining a warrant under subsection (9) or (10) exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant.

(9) An animal protection officer who enters an unoccupied place or vehicle under this section shall leave in the place or vehicle a notice indicating the animal protection officer's name, the time of entry and the reason for entry.

(10) An animal protection officer may use force as is reasonably necessary to execute a warrant or to carry out an authorized action under this Act.

(11) The owner or occupier or any person on land or in premises or a vehicle which is entered under this section shall render such reasonable assistance as may be required by the Inspector.

(a) A person who refuses, unreasonably delays or fails to comply with a requirement under sub section 14 commits an offence.

(12) No person shall obstruct or hinder or make a false or misleading statement to an animal protection officer who is carrying out an authorized action under this Act.

(a) A person who contravenes subsection (15) above commits an offence and shall be liable, on conviction, to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding three years, or both.

Magistrate to issue warrant

9. (1) A court may issue a warrant authorizing an animal protection officer and any other person named in the warrant, together with such police officers as are required to assist, to enter the place or vehicle and carry out an inspection in accordance with the powers referred to in subsection (1).

(2) The owner or person in charge of a place entered by an animal protection officer under this section, and any person found in that place, shall—

- (a) give the animal protection officer all reasonable assistance to enable the animal protection officer to carry out any action authorized under this Act;
- (b) furnish the animal protection officer with any licence, record or information he or she may reasonably require to carry out any action authorized under this Act; and
- (c) produce any animal that the animal protection officer requires for viewing or examination.

(3) Where an animal protection officer signals or requests a person driving a vehicle that is subject to being inspected to stop, the person shall immediately bring the vehicle to a stop and shall not proceed until permitted to do so by the animal protection officer, and shall give the animal protection officer assistance in the same manner as specified in subsection (3).

Entry and Inspection to Enforce Orders

10. (1) An animal protection officer may, at any reasonable time and where reasonably required to determine compliance with an order made under subsection 11 (1) or 12(2) or section 41 (1)(a)—

- (a) enter and inspect any place in which the animal protection officer believes on reasonable grounds there is or should be an animal, structure, supply of food or water, shelter, enclosure, area, document, record or other thing to which the order applies;
- (b) inspect, test or examine the structure, supply of food or water, shelter, enclosure, area, document, record or thing; and
- (c) view or conduct an examination of any animal.

(2) A court may at any time issue a warrant authorizing an animal protection officer and any other person named in the warrant, with such police officers as are required to assist, to enter and inspect the place and exercise such other powers referred to in subsection (1) as may be specified in the warrant.

Actions Animal Protection Officer Where an Animal is in Distress

11. (1) An animal protection officer who discovers an animal that the officer believes on reasonable grounds is in distress may do one or more of the following—

- (a) provide any care or take any other action the animal protection officer considers necessary to relieve the animal's distress;
- (b) seize the animal;
- (c) notify the director for the purpose of making an order under section 10 (1).

Destruction of Animal

12. (1) If a seized animal is, in the opinion of—
- (a) a veterinarian;
 - (b) two other individuals, if a veterinarian is not readily available on a timely basis; or
 - (c) an animal protection officer, if neither a veterinarian or two other individuals are readily available on a timely basis;

in such distress that it would be inappropriate to allow the animal to continue to live, an animal protection officer may destroy the animal or cause the animal to be destroyed.

(2) An animal protection officer who provides care to or seizes an animal under subsection 9(1) or destroys an animal under subsection (1) shall take reasonable steps to locate the owner of the animal as soon as reasonably practicable and to advise the owner that the animal was found to be in distress and of any action taken by the animal protection officer in respect to the animal.

Director's order to take action

13. (1) Where the animal protection officer has reasonable grounds to believe that—
- (a) an animal is in distress; or
 - (b) an animal's owner is not carrying out his or her duties toward the animal as set out in section 2;

the animal protection officer may order the owner to take any action that the director believes is necessary, including having the animal examined and treated by a veterinarian at the expense of the owner, in order to—

- (i) relieve the animal of its distress; or
- (ii) ensure that the owner carries out his or her duties toward the animal.

(2) The order must state the reasons for making it and advise the owner of the right to appeal the order under subsection (6).

(3) The order must be given to the owner in accordance with the regulations.

(4) Where, in the director's opinion, the circumstances that gave rise to the order no longer exist, he or she shall revoke the order and give written notice of the revocation to the owner.

- (5) An order expires one year after the date it is given, unless it is—

- (a) sooner revoked by the director under subsection (4) or varied or rescinded by the appeal board under subsection (8); or
- (b) extended by the director for a further period that must not exceed one year.
- (6) The owner to whom an order is directed may appeal the order by filing a notice of appeal with the appeal board within seven days after receiving a copy of the order.
- (7) An appeal of an order does not stay the operation of the order.
- (8) After a hearing, the appeal board may make any of the following orders—
 - (a) an order confirming, varying or rescinding the Director's order;
 - (b) if the director's order is varied or rescinded, an order that all or any part of the costs incurred by the owner in complying with the Director's order be paid by the county government to the owner;
 - (c) any other order that the appeal board considers appropriate in the circumstances.

Application for order

14. (1) The Director may apply to a magistrate for an order under subsection (2) in respect of an owner, if—

- (a) animals have been seized from the owner under subsection 9(1) or the owner has voluntarily surrendered animals to the director; and
 - (b) the director believes on reasonable grounds that—
 - (i) at the time those animals were seized or surrendered, the owner was unable to carry out his or her duties under this Act because the number or type of animals owned, possessed or controlled by the owner exceeded the owner's ability to carry out his or her duties toward them; and
 - (ii) the owner is not, or may not be, able to carry out his or her duties under this Act toward the animals that the owner presently owns, possesses or controls, or may own, possess or control, because the circumstances mentioned in subsection (b) (i) continue to exist or may occur again.
- (2) On an application under subsection (1), a magistrate may make an order—
- (a) prohibiting an owner from owning or having possession or control of more than a specified number or type of animals, for a period up to three years; and

- (b) directing that any animals owned, possessed or controlled by the owner at the time the order is made—
 - (i) beyond the number of animals allowed under the order; or
 - (ii) other than the type of animal allowed under the order, become the property of the county government.

Seizing animals for non-compliance with order

15. (1) Where as a result of an inspection under section.. an animal protection officer has reasonable grounds to believe that an owner has not complied with an order referred to in that section, the officer may—

- (a) seize the animal; or
- (b) seize any or all of the owner's animals so that the number or type of animals owned, possessed or controlled by the owner is in compliance with the order.

Abandoned Animals taken into Custody

16. An animal protection officer who discovers an animal that they believe on reasonable grounds is abandoned or is lost may take the animal into custody and provide it with any care the officer considers necessary.

Placement with Caregiver

17. (1) An animal protection officer who seizes an animal or takes an abandoned animal into custody under this Act may act as a caregiver or may put the animal under the control of a caregiver.

(2) A caregiver may provide such care to an animal that has been seized or taken into custody under this Act as the caregiver considers reasonable in the circumstances or as may be directed by the Director.

(3) The Director or an animal protection officer may remove an animal from the control of a caregiver and put the animal under the control of a different caregiver or otherwise deal with the animal in accordance with this Act.

- (4) When an animal protection officer—
 - (a) provides care to or seizes an animal under subsection 9(1);
 - (b) takes an abandoned animal into custody under section 15;
 - (c) destroys an animal under subsection 10(1); or
 - (d) puts an animal under the control of a caregiver under this section;

the animal protection officer shall, within a period of time and in a form as may be required by the director, notify the director of such action.

(5) Where an officer determines that to ensure compliance with the regulations it is no longer necessary to detain an animal by the caregiver under this section, the officer shall notify in writing the owner or other person in charge of the place where the seizure occurred of that determination and, on being issued a receipt for it, shall return the animal to that person.

PART IV—DISPOSING OF SEIZED AND ABADONED ANIMALS

Notice of owner of right of appeal

18. (1) Within seven days after a commercial animal is seized under subsection 9 (1) or taken into custody under section 15, the director must give the owner notice that the animal will be sold, given away or destroyed if the owner does not file an appeal within the time required under subsection 18 (2).

(2) If the time for filing an appeal under subsection 18(2) has elapsed and the owner of a commercial animal that has been seized or taken into custody has not filed an appeal, the director may sell, give away or destroy the animal.

(3) If seven days have elapsed after a commercial animal is seized or taken into custody and, despite reasonable inquiries by an animal protection officer, the animal's owner has not been located, the director may sell, give away or destroy the animal.

Appeal by owner of commercial owner

19. (1) The owner of a commercial animal that has been seized under subsection 9(1) or taken into custody under section 15 may request the appeal board to order the animal's return by filing a notice of appeal with the appeal board.

(2) A notice of appeal must be filed with the appeal board within seven days after the day notice under subsection 17(1) is given to the owner.

(3) After a hearing, the appeal board may make any of the following orders—

- (a) an order that the commercial animal be returned to the owner;
- (b) an order that the director may sell, give away or destroy the animal;
- (c) any other order that the appeal board considers appropriate in the circumstances.

(4) When the appeal board has made an order under subsection (3), the director must deal with the animal in the manner ordered.

Companion Animal shall be Returned

20. A companion animal that has been seized under subsection 9(1) shall be returned to the owner of the animal by an animal protection officer within seven days of the seizure of the animal unless—

- (a) the owner has not been located despite due inquiry by an animal protection officer; or
- (b) the director has given the owner of the animal a notice under section 20 (1) (a) that the animal will be sold, given away or destroyed after seven days have elapsed since the date the notice was given.

Companion animal may be sold

21. (1) The director may sell, give away or destroy a companion animal that has been seized under subsection 9(1) or taken into custody under section 15 if—

- (a) the Director has given notice to the owner that the animal will be sold, given away or destroyed; and
 - (b) seven days have elapsed since the notice was given and the owner has not filed a notice of appeal under subsection 21(1).
- (2) The notice under subsection (1) (a) must be given to the owner in accordance with the regulations.

Notice of appeal by owner

22. (1) The owner of a companion animal that has been seized under subsection 9(1) or taken into custody under section 15 may request the appeal board to order the animal's return by filing a notice of appeal with the appeal board.

(2) A notice of appeal must be filed within seven days after the day notice under section 20 (1) (a) is given to the owner.

(3) When a notice of appeal has been filed with the appeal board, the companion animal that has been seized or taken into custody is to remain in the care of the caregiver until the appeal board has made an order.

(4) After a hearing, the appeal board may make any of the following orders—

- (a) an order that the director return the companion animal to the owner;
- (b) an order that the director may sell, give away or destroy the companion animal;
- (c) any other order that the appeal board considers appropriate in the circumstances.

(5) When the appeal board has made an order under subsection (4), the director shall deal with the animal in the manner ordered.

Companion animal's owner not located

23. (1) If seven days have elapsed after a companion animal has been seized or taken into custody under this Act and, despite reasonable inquiries by an animal protection officer, the animal's owner has not been located, the director may sell, give away or destroy the animal.

(2) The proceeds mentioned in this section shall devolve upon the State, and be paid into the Consolidated Fund.

Transfer of Ownership

24. Where the director sells or gives away an animal under this Act, the animal becomes the property of the person to whom the animal was sold or given.

Owner Liable for Costs

25. (1) The owner of an animal that has been seized or taken into custody is liable to pay to the director on demand an amount equal to the costs of care for the animal.

(2) The Director may at any time, and shall upon the request of an owner of an animal that has been seized or taken into custody, provide to the owner a statement of account setting out the costs of care for the animal claimed by the Director.

(3) The Director may waive all or any part of the costs of an animal's care if the owner satisfies the director that payment of the waived amount would be an unreasonable hardship for the owner.

Objection to amount claimed

26. (1) On application by an owner who has been provided a statement of account under subsection 24 (2), the court shall review and determine the amount to be paid to the director for the costs of care for the animal.

(2) A notice of application under this section shall be filed with the court and served upon the director within seven days of receipt of the statement of account by the owner.

(3) If the owner of an animal that has been seized or taken into custody under this Act —

- (a) has failed to pay the costs of care set out in a statement of account provided under subsection 25(2) and the owner has not made an application under sub section 22 (1); or
- (b) has made an application under sub section 22 (1), and has failed to pay the costs of care determined by the court to be payable

within three days of the determination of the costs of care by the court;

the director may sell, give away or destroy the animal.

Proceeds of Sale

27. (1) Subject to subsections (2) and (3), where an animal is sold by the director under this Act, proceeds of the sale shall be disbursed in the following order of priority—

- (a) the Director shall retain an amount equal to the costs of care; and
- (b) the balance of the sale proceeds shall be paid to the former owner of the animal.

(2) The former owner of an animal that is sold by the director under this Act shall pay to the director an amount equal to any portion of the costs of care that are not recovered from the proceeds of the sale of the animal.

(3) In the event the director has reason to believe a creditor may have a security interest in an animal sold by the director under this Act, the director may apply to the court for an interpleader order in respect of the balance of the sale proceeds over and above an amount equal to the costs of care for the animal.

(4) Where, despite due inquiry by an animal protection officer, the owner of an animal that has been seized or taken into custody is unknown, the balance of the sale proceeds over and above an amount equal to the costs of care for the animal, if any, shall be retained by the director and forfeited to the county government.

Costs recoverable as debt due

28. (1) Any amount for which a person is liable for costs of care under this Act is a debt due by that person to the county government.

(2) The county government has a lien on an animal that has been seized or taken into custody for an amount equal to the costs of care for that animal.

PART V— LICENSING OF KENNELS, BREEDERS AND RETAIL STORES

Kennel licences

29. (1) No person shall operate a kennel except under the authority of a licence issued by the director for that purpose.

(2) In subsection (1), “kennel” includes—

- (a) premises where more than the prescribed number of companion animals are kept, and—

- (i) the owner or operator of the premises receives a fee for keeping the companion animals; or
 - (ii) the companion animals are kept in connection with a commercial enterprise that is not exempt under the regulations; or
- (b) premises operated as a pound, animal shelter or animal rescue facility, or premises operated for a similar purpose that are designated in the regulations.

Companion animal Breeding Premises Licences

30. (1) No person shall operate companion animal breeding premises except under the authority of a licence issued by the director for that purpose.

(2) In subsection (1), “companion animal breeding premises” means premises where more than the prescribed number of female companion animals that are capable of reproduction are kept.

(3) A female companion animal is deemed to be capable of reproduction unless the owner or operator of the premises satisfies the director or an animal protection officer otherwise.

(4) A licence under subsection (1) is not required in respect of premises where more than the prescribed number of female companion animals capable of reproduction are kept if the owner or operator of the premises satisfies the director or an animal protection officer that the animals are not kept for the purpose of breeding them and selling their offspring.

Companion animal retail store licences

31. (1) No person shall operate a companion animal retail store except under the authority of a licence issued by the director for that purpose.

(2) “Companion animal retail store” in this section means commercial premises where companion animals are kept and offered for sale to the public.

License Application

32. (1) An application for a licence shall be made to the County Executive Committee member and shall contain the information and be accompanied by the fee and any documentation required by the regulations.

(2) The Director may require an applicant for a licence to submit any additional information the director considers necessary.

(3) The Director may require an applicant for a licence to provide security to ensure that the premises operated by the applicant will be operated in accordance with this Act and the regulations.

(4) The security must meet the requirements set out in the regulations.

Issuing or Refusing a Licence

33. (1) The Director may issue or refuse to issue a licence.

(2) The Director may issue a licence to an eligible applicant if—

(a) the application has been made in accordance with section 31; and

(b) the director is of the opinion that—

(i) the premises and its proposed operation, as specified in the application, conform with the requirements of the regulations; and

(ii) the application accurately reflects the actual or proposed operation of the premises.

(3) The director may—

(a) issue a licence subject to any terms and conditions the director considers appropriate, including specifying the maximum number of animals that the licence holder can keep on the licensed premises; and

(b) at any time, impose terms and conditions on a licence previously issued.

(4) The holder of a licence shall comply with this Act and the terms and conditions of the licence.

(5) The holder of a licence shall keep the licence posted in the licensed premises in a clearly visible and prominent place.

Register of licensed premises

34. The Director may, in accordance with the regulations—

(a) establish and maintain a register, which may be in electronic form and may include personal information, of persons who operate premises licensed under this Act; and

(b) make information from the register available to the public.

Notice of Refusal

35. If the director refuses to issue a licence, the director shall give the applicant a written notice of the refusal, in accordance with the regulations, that shall give reasons for the refusal.

Term of Licence

36. (1) A licence issued by the Director shall be valid for a term of one year or such other term as may be provided for in the regulations.

(2) A licence is not transferable to another person or to other premises.

Suspension or Cancellation of Licence

37. The Director may suspend or cancel a licence by giving, in accordance with the regulations, a written notice of suspension or cancellation to the licence holder, with reasons, if the director is satisfied that—

- (a) the licence holder has failed to comply with this Act or a term or condition of the licence;
- (b) the licence holder has been found guilty of an offence under any Act relating to the treatment of animals or the wrongful possession of an animal; or
- (c) he suspension or cancellation is authorized for any reason specified in the regulations.

PART VII—GENERAL PROVISIONS

Disposal of dead animals.

38. (1) Within seventy-two hours after death or discovery of a dead animal, the owner or, if the owner of the animal cannot be identified, the owner of the property on which the animal is found must properly dispose of the dead animal.

(2) The person responsible for disposal of a dead animal must dispose of it in a manner so as not to become a public or common nuisance or cause pollution of surface or groundwater.

(3) The person responsible for disposal of a dead animal must dispose of it by burial, land filling, incineration, composting, rendering, or another method approved by the local health officer.

(4) A person disposing of a dead animal by burial must place it so that every part is covered by at least three feet of soil; at a location not less than one hundred feet from any well, spring, stream or other surface waters; not in a low-lying area subject to seasonal flooding or within a one hundred-year flood plain; and not in a manner likely to contaminate groundwater.

(5) A person disposing of a dead animal must not bury or compost it within the sanitary control area of a public drinking water supply source.

(6) The local health officer may specify the method of disposal for a dead animal if—

- (a) the animal died with a communicable disease transmissible to humans; or
- (b) the local health officer considers a public health emergency to exist.

Offences

39. (1) A person who contravenes any provision of this Act or an order made under this Act commits an offence and is liable—

- (a) to a fine of not more than one hundred thousand shillings, or to imprisonment for a term of not more than six months, or both; and
- (b) for a subsequent offence, to a fine of not more than two hundred thousand shillings, or to imprisonment for a term of not more than 12 months, or both.

(2) Where a company, association or other body commits an offence, a director or officer or agent of the company, association or other body who authorized, permitted or acquiesced to the offence also commits the offence and is liable to the penalty for the offence provided for in this section.

(3) A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner consistent—

- (a) with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations;
- (b) consistent with generally accepted practices or procedures for such activity; or
- (c) otherwise reasonable in the circumstances.

Prohibition of Ownership

40. (1) Where a person is found guilty of an offence, the magistrate may—

- (a) prohibit the person from owning or having possession or control of animals or of a number or type of animals for any period that the magistrate considers appropriate, including a lifetime ban on an individual or any corporation controlled by the individual;
- (b) direct that any other animals owned by the person become the property of the county government.

(2) A prosecution under this Act may not be commenced later than two years after the day the alleged offence was committed.

Advisory Committee

41. (1) The County Executive member may appoint an advisory committee to provide advice and recommendations to the minister about matters concerning the administration of the Act.

(2) The County Executive member may determine the terms of the reference and the procedures of an advisory committee.

(3) Members of an advisory committee may be paid expenses determined by the Governor.

Authority of Director to appoint agents

42. (1) Subject to the approval of the County Executive member, the Director may, by agreement in writing, appoint any qualified person or organization to act as the agent of the director to perform any responsibility or exercise any authorized action on behalf of the director under sections 16 to 27 with respect to a type of animal or to a geographic area as such agreement may specify on such terms and conditions as may be set out in the agreement including—

- (a) placing an animal with a caregiver;
- (b) selling, giving away or destroying an animal;
- (c) providing a notice to an owner;
- (d) responding to an order of the Cabinet Secretary; and
- (e) dealing with costs of care and matters relating to costs of care.

(2) A requirement to report or provide information under this Act applies even if—

- (a) it requires the disclosure of personal information;
- (b) it requires the disclosure of proprietary information or confidential information; or
- (c) disclosure of the information is restricted by legislation or otherwise.

(3) No action or proceeding may be brought against a person who in good faith complies with a request or requirement to report or provide information under this Act.

Protection from liability

43. No action or proceeding may be commenced against the County Executive member, the director, an agent of the director, an animal protection officer, a caregiver, or a member of the appeal board or an advisory committee for any act done in good faith in the performance or intended performance of a responsibility or in the exercise or intended exercise of an authorized action under this Act, or for any neglect or

default in the performance of a responsibility or the exercise of an authorized action in good faith.

Regulations

- 44.** The County Executive member may make regulations—
- (a) designating an activity as an accepted activity;
 - (b) specifying standards or codes of conduct, criteria, practices or procedures as acceptable;
 - (c) specifying practices or procedures that are prohibited;
 - (d) establishing costs of care or a method for determining costs of care that are payable by the owner of an animal that has been seized or taken into custody under this Act;
 - (e) for the purposes of the definition “commercial animals” in subsection 1(1), designating species or types of animals;
 - (f) respecting standards and requirements for the operation of commercial animal markets and commercial animal assembling stations, including standards or requirements relating to—
 - (i) hygiene;
 - (ii) sanitation;
 - (iii) recordkeeping; and
 - (iv) the feeding, watering and handling of animals in those premises; and
 - (v) requiring operators of those premises to comply with the standards and requirements;
 - (g) governing procedures for obtaining warrants under section 8 and subsection 16(2), including by telephone, fax or other methods of telecommunication;
 - (h) respecting licensing under this Act, including—
 - (i) the content of applications for licences;
 - (ii) the qualifications of, and requirements to be met by applicants for and holders of licences;
 - (iii) information and records to be provided to the director by applicants for and holders of licences;
 - (iv) licence fees and exemptions from fees;
 - (v) bonds and other security, including the terms, conditions and other security;

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- (vi) the records to be maintained by licence holders, including the length of time for which and the location at which records must be retained; and
 - (vii) licence suspensions and cancellations;
 - (i) respecting standards and requirements to be met by operators of companion animal breeding premises, companion animal retail stores and kennels, including—
 - (i) the standards of design for the premises;
 - (ii) the standards of hygiene and sanitation required in the premises;
 - (iii) the standards or requirements for feeding; and watering animals in the premises; and
 - (iv) health or disease prevention procedures that are required to be performed by the operators of the premises;
 - (j) respecting any matter that the county executive member considers necessary or advisable to carry out the purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to give effect to provide for the welfare and protection of animals in the county. This Bill seeks to implement the performance of the function of the county government in relation to agriculture; and specifically to the welfare and protection of animals.

STATEMENT ON CONSTITUTIONALITY AND CONFLICT OF LAWS

The Bill does not contravene any of the provisions of the Constitution; and is not ultra vires any of the provisions of any national laws relating to agriculture. In case of any conflict between the Bill and any national laws, the provisions of Article 191 of the Constitution shall take effect.

Dated the 28th January, 2022.

JACKSON MPAADA,
*Chairperson, committee on
Agriculture, Veterinary Services, Fisheries and Irrigation.*