

FILED FEB 26 1991

SENATE FILE **197**
BY SZYMONIAK and RIORDAN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the sterilization of dogs and cats, and
2 providing for the creation and appropriation of moneys in a
3 fund and the imposition of fees and civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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6 **SENATE FILE 197**
7 **S-3079**

- 1 Amend Senate File 197 as follows:
- 2 1. Page 5, line 5, by inserting after the word
- 3 "treasury" the following: "under the control of the
- 4 Iowa department of public health".
- 5 2. Page 6, lines 23 and 24, by striking the words
- 6 "treasurer of state" and inserting the following:
- 7 "Iowa department of public health".

By ELAINE SZYMONIAK

S-3079 FILED FEBRUARY 26, 1991

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1 Section 1. Section 162.18, Code 1991, is amended to read
2 as follows:

3 162.18 FEES.

4 1. All fees collected by the secretary from licenses and
5 certificates issued under this chapter shall be paid to the
6 treasurer of state.

7 2. A fee of ten dollars shall be assessed and collected by
8 the Iowa department of public health for each dog or cat owned
9 by a person engaged in the business of selling dogs or cats,
10 including a pet shop for a commercial breeder. The fee shall
11 be paid to the treasurer of state for the animal population
12 control fund established in section 169A.5.

13 Sec. 2. NEW SECTION. 169A.1 PURPOSE.

14 The purpose of this chapter is to reduce the population of
15 unwanted and stray dogs and cats which present potential
16 threats to the public health and safety by encouraging owners
17 to have the animals permanently sexually sterilized through
18 provision of low-cost animal sterilization services.

19 Sec. 3. NEW SECTION. 169A.2 DEFINITIONS.

20 1. "Claim" means a request for reimbursement submitted to
21 the department by a participating veterinarian for performing
22 services designated under the program.

23 2. "Department" means the Iowa department of public
24 health.

25 3. "Fund" means the animal population control fund
26 established pursuant to section 169A.5.

27 4. "Owner" means a person who is one of the following:

- 28 a. An owner as defined in section 351.2.
- 29 b. A person in whom is vested the ownership, dominion
30 over, or title to a dog or cat, including a person obligated
31 by law to care for a dog or cat.
- 32 c. A pound.

33 5. "Participating veterinarian" means a veterinarian
34 licensed under chapter 169, if the department accepts the
35 application submitted by the veterinarian to participate in

1 the program.

2 6. "Pound" means the same as defined in section 162.2.

3 7. "Program" means the animal population control program
4 as provided in this chapter.

5 8. "Service fee" means a ten-dollar fee which the owner
6 shall deliver to the veterinarian before services under the
7 program may be performed by the participating veterinarian.

8 9. "Sterilization" means a surgical operation to
9 permanently sexually sterilize by spaying or neutering a dog
10 or cat as performed by a veterinarian licensed under chapter
11 169.

12 Sec. 4. NEW SECTION. 169A.3 ANIMAL CONTROL PROGRAM --
13 DUTIES AND POWERS OF THE DEPARTMENT.

14 1. The department has all duties and powers necessary to
15 administer the program. The department shall administer the
16 fund and establish procedures for approving expenditures from
17 the fund, collecting fees required under this chapter,
18 inspecting records of pet shops and commercial breeders
19 regulated under chapter 162, and adopting rules necessary to
20 administer and enforce this chapter.

21 2. The department shall adopt rules for reimbursing
22 participating veterinarians. The rules shall include
23 procedures for the approval of program applications, and
24 procedures to accept, verify, and pay claims. The department
25 shall publish and promulgate forms on which claims may be
26 submitted.

27 Sec. 5. NEW SECTION. 169A.4 LOW-INCOME OWNERS.

28 An owner other than a pound may participate in a program
29 only if the owner is a person eligible to participate in any
30 federal or state program designated by the department which
31 provides assistance to low-income individuals, including but
32 not limited to the following:

33 1. The food stamp program authorized by Title VIII of the
34 Food and Agriculture Act of 1977, 7 U.S.C. § 2011 et seq.

35 2. The supplemental security income program established

1 pursuant to Title XVI of the Social Security Act, 42 U.S.C. §
2 1381 et seq.

3 3. The rental assistance program authorized pursuant to
4 section 8 of the United States Housing Act of 1937 as amended
5 by the Housing and Community Development Act of 1974, 42
6 U.S.C. § 1437(f).

7 4. The program to provide housing assistance for very low
8 income and lower income families under section 220.15.

9 5. The program to provide aid to dependent children under
10 chapter 239.

11 Sec. 6. NEW SECTION. 169A.5 PARTICIPATING VETERINARIANS.

12 1. An owner of a dog or cat may have the animal sterilized
13 under the program by a participating veterinarian upon
14 completion of the owner's part of the claim, and delivery of
15 the animal to the veterinarian for sterilization upon terms
16 and conditions specified by the veterinarian.

17 2. A veterinarian licensed under chapter 169 may
18 participate in the program by filing with the department
19 according to rules adopted by the department an application
20 which shall state all information prescribed by the
21 department, including a fee schedule listing the normal and
22 customary fees charged for sterilization in the normal course
23 of business. The fees may vary according to the weight, sex,
24 and species. The department shall disapprove an application
25 if the fees listed are unreasonably high.

26 3. A claim submitted by a participating veterinarian shall
27 contain all information required by the department and must
28 contain information relating to the name and address of the
29 owner, the services performed, a statement explaining that the
30 owner authorizes the services to be performed, the signatures
31 of the owner and participating veterinarian, and a statement
32 that the service fee has been paid by the owner.

33 4. A participating veterinarian shall post a notice
34 published and promulgated by the department which informs
35 owners of the rights and duties of a participating

1 veterinarian in disposing of an abandoned dog or cat as
2 provided in subsection 7. The notice shall be posted in a
3 clear and conspicuous manner.

4 5. The department shall reimburse a participating
5 veterinarian submitting a claim for sterilization of an
6 owner's dog or cat. The reimbursement rate shall equal the
7 difference between eighty percent of the normal and customary
8 fee charged according to the participating veterinarian's fee
9 schedule and the service fee received by the participating
10 veterinarian.

11 6. The department shall also reimburse a participating
12 veterinarian submitting a claim for presterilization
13 immunization of dogs against distemper, hepatitis,
14 leptospirosis, or parvovirus, or the presterilization
15 immunization of cats against feline panleukopenia, calici,
16 pneumonitis, or rhinotracheitis. However, the immunization
17 shall be administered at least ten days prior to sterilization
18 and the animal must not have been previously immunized. The
19 rate of reimbursement shall be not more than established by
20 rule adopted by the department.

21 7. A dog or cat left with a participating veterinarian
22 under the program shall be deemed abandoned, if the owner
23 fails to honor arrangements to retrieve the dog or cat and
24 fails to retrieve the dog or cat within three days following
25 sterilization. The participating veterinarian shall dispose
26 of the unretrieved dog or cat not before three days following
27 abandonment and a diligent effort to locate the owner. The
28 participating veterinarian shall dispose of the abandoned dog
29 or cat by delivering it to a pound with a copy of the claim.
30 The participating veterinarian may include on the claim
31 submitted to the veterinarian reasonable charges incurred for
32 boarding the dog or cat.

33 8. A participating veterinarian is not liable for an
34 action performed or advice rendered under the program, unless
35 the action or advice constitutes gross negligence, represents

1 fraud, or is a criminal offense.

2 Sec. 7. NEW SECTION. 169A.6 ANIMAL POPULATION CONTROL
3 FUND.

4 1. The animal population control fund is created in the
5 state treasury. The general fund of the state is not liable
6 for claims presented against the fund under section 169A.5.
7 The fund consists of the fees collected and designated for the
8 fund under sections 162.18 and 351.6, service fees charged to
9 owners as provided in section 169A.2, sums collected in civil
10 penalties by the department and by legal action on behalf of
11 the fund, interest acquired through the investment of moneys
12 in the fund notwithstanding section 453.7, and donations made
13 from any public or private source. The moneys collected under
14 this section and deposited in the fund shall be used
15 exclusively to reimburse claimants and to pay for
16 administering this section and are appropriated for these
17 purposes. Section 8.33 is not applicable to the fund.

18 2. The department shall determine the validity of all
19 claims presented against the fund and shall limit the time
20 when claims are honored by the department. If at any time the
21 fund does not contain sufficient assets to pay all valid
22 claims, the department shall hold those claims for payment
23 until the fund again contains sufficient assets. Claims
24 against the fund shall be paid in the order in which they are
25 found to be valid.

26 Sec. 8. NEW SECTION. 169A.7 CIVIL PENALTIES.

27 1. The department shall assess a civil penalty of two
28 hundred and fifty dollars for the first offense and five
29 hundred dollars for each subsequent offense, upon the
30 following:

31 a. A person who falsifies proof of eligibility as an owner
32 or veterinarian under this chapter in order to participate in
33 the program.

34 b. A person who knowingly furnishes to a participating
35 veterinarian misleading information regarding ownership of an

1 animal submitted for sterilization.

2 c. A person who knowingly furnishes to the department
3 false information in the application to participate in the
4 program, including the fee schedule and qualifications as a
5 licensed veterinarian or in a claim.

6 d. A person who knowingly fails to forward to the
7 department the fees imposed in section 162.18, or who
8 falsifies records relating to the payment of the fees.

9 2. The money collected by the department under this
10 section shall be transmitted to the treasurer of state who
11 shall deposit the money in the fund. Judicial review of an
12 action of the department may be sought in accordance with
13 chapter 17A.

14 Sec. 9. Section 351.6, Code 1991, is amended to read as
15 follows:

16 351.6 FEE.

307917 The annual license fee shall be set by the city council or
18 the board of supervisors, as applicable. The fee shall
19 accompany the application. In addition to the regular fee,
20 the owner shall pay to the county or city a three-dollar fee
21 which shall be forwarded to the treasurer of state for the
22 animal population control fund established in section 169A.6,
23 in the manner and at the time prescribed by the treasurer of
24 state.

25 EXPLANATION

26 This bill provides for the establishment of a program in
27 which participating veterinarians are reimbursed for
28 performing sterilizations on dogs and cats owned by pounds or
29 by persons eligible for low-income assistance. The bill
30 establishes a fund, provides for administration of the program
31 and fund by the Iowa department of public health, and provides
32 for the assessment of fees on dogs or cats owned by persons
33 engaged in the sale of such animals, including pet shops and
34 commercial breeders. The bill also provides for the
35 imposition of civil penalties. The bill creates a new chapter

1 tentatively numbered 169A.

2 This bill may require a state mandate as provided in
3 chapter 25B. The county or city collecting a dog license fee
4 must forward to the state treasurer an additional fee to be
5 deposited in the animal population control fund.

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SENATE FILE 197
FISCAL NOTE

A fiscal note for Senate File 197 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 197 establishes an Animal Population Control Program in which participating veterinarians are reimbursed for performing sterilization on dogs and cats owned by pounds or by persons who are eligible for low-income assistance. Senate File 197 establishes a fund, provides for administration of the Program and the Fund by the Department of Public Health (DPH), provides for the assessment of fees on dogs or cats owned by persons engaged in the sale of such animals, and provides for the imposition of civil penalties.

ASSUMPTIONS:

1. There are approximately 150,000 licensed dogs in Iowa. A \$3.00 surtax would generate \$450,000.
 2. There are approximately 20,000 new puppies produced at Iowa's kennels per year. A \$10.00 service fee would generate \$200,000.
 3. There are approximately 20,000 additional puppies sold in Iowa through breeders and retailers. A \$10.00 service fee would generate \$200,000.
- Approximately 3,000 dogs/cats would require sterilization at an average reimbursement of \$48.25 per animal for FY 1992. For FY 1993 the population would be 10,000 and the average reimbursement would be \$46.50 per animal.

FISCAL EFFECT:

	<u>FY 1992</u>	<u>FY 1993</u>
<u>REVENUE</u>		
Dog License Fee	\$ 450,000	\$ 450,000
Puppy Tax	\$ 400,000	\$ 400,000
Total	\$ 850,000	\$ 850,000
<u>EXPENDITURES</u>		
Salaries	\$ 60,000	\$ 147,000
Support	\$ 40,000	\$ 50,000
Ag Contract	\$ 60,000	\$ 75,000
Sterilization	\$ 386,000	\$ 465,000
Total	\$ 546,000	\$ 737,000
<u>NET EFFECT</u>	<u>\$ 304,000</u>	<u>\$ 113,000</u>

Source: Department of Public Health

(LSB 2028ss, RRS)

FILED MARCH 13, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR