

165B.5 Restricted concentration points civil penalties.

1. A person shall not operate a restricted concentration point. A restricted concentration point includes, but is not limited to, all of the following:

a. A concentration point where poultry are sold, bartered, or offered for sale or barter, if the concentration point is part of a market where poultry are sold, bartered, or offered for sale or barter to the general public.

b. A concentration point where poultry are placed together as part of a contest, including but not limited to an event conducted for purposes of producing violent contact between the poultry.

2. Subsection 1 does not apply to any of the following:

a. A slaughtering establishment, public stockyard, livestock auction market, state or federal market, livestock buying station, or a livestock dealer's yard, truck, or facility.

b. A fair conducted pursuant to chapter 173 or 174.

c. An event sanctioned by the department.

d. A 4-H function.

e. An event sponsored or sanctioned by the Iowa turkey marketing council, the Iowa turkey federation, the national turkey federation, the Iowa poultry association, the Iowa egg council, the American egg board, or the American poultry association.

3. *a.* A person who owns or operates a restricted concentration point is subject to a civil penalty of five thousand dollars for the first violation and twenty-five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

b. A person who has a legal interest in infected poultry or has custody of infected poultry which are located at a restricted concentration point is subject to a civil penalty of five thousand dollars for the first violation and twenty-five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

c. A person who transports poultry to or from a restricted concentration point is subject to a civil penalty of one thousand dollars for the first violation and five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

d. A person who purchases, offers to purchase, barter, or offers to barter for poultry at a restricted concentration point is subject to a civil penalty of one hundred dollars for the first violation and one thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

e. A person who charges admission for entry into a restricted concentration point where a contest occurs or otherwise holds, advertises, or conducts the contest is subject to a civil penalty of one thousand dollars for the first violation and five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

f. A person who attends or participates in a contest at a restricted concentration point where a contest occurs is subject to a civil penalty of one hundred dollars for the first violation and one thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

4. This subsection applies to poultry maintained at a restricted concentration point, or poultry transported to

or from a restricted concentration point.

a. The department or a law enforcement officer may confiscate poultry before a contested case proceeding or judicial hearing is conducted to determine whether this section has been violated. If the department or a court determines that a violation of this section has occurred, the poultry are conclusively deemed to be infected with a pathogenic virus. The poultry shall be kept separate and apart until destroyed by euthanasia as defined in section 162.2.

b. The department shall provide that real or personal property that is exposed to the poultry shall be sanitized as required to eliminate the source of the pathogenic virus. As part of the sanitation, the department shall provide for the disposal of poultry carcasses, eggs, or manure. Upon inspection, the department shall certify that the sanitization has been performed as required by this paragraph.

c. The department may utilize the procedures provided in section 17A.18A in order to enforce the provisions of this section. The attorney general or county attorney may petition the district court for an expedited hearing.

d. The department shall be reimbursed by the owner of the poultry or property for costs required to carry out this subsection. However, if the enforcement action is brought due to the activity of a law enforcement officer of a political subdivision, the political subdivision shall be reimbursed by the owner of the poultry or property for those costs. The department or political subdivision shall certify the amount to the county auditor of any county in which the owner is a titleholder of real property. The amount shall be placed upon the tax books and shall be a lien upon the real property, and collected with interest and penalties after due, in the same manner as other unpaid property taxes.

2004 Acts, ch 1089, §6; 2004 Acts, ch 1175, §329; 2005 Acts, ch 3, §41