

H-8237

1 Amend the amendment, H-8206, to House File 2626, as follows:

2 1. By striking page 1, line 4, through page 18, line 32, and  
3 inserting:

4 <<DIVISION I

5 ANIMAL HEALTH

6 Sec. \_\_\_\_\_. NEW SECTION. **163.2A Part — definitions.**

7 As used in this part, unless the context otherwise requires:

8 1. "*Animal*" means any livestock or agricultural animal as  
9 defined in section 717A.1.

10 2. "*Interested person*" means the owner of an animal; a  
11 person caring for the animal, if different from the owner of  
12 the animal; or a person holding a perfected agricultural lien  
13 or security interest in the animal under chapter 554.

14 Sec. \_\_\_\_\_. Section 163.3, Code 2020, is amended to read as  
15 follows:

16 **163.3 Veterinary and special assistants.**

17 The secretary or the secretary's designee may appoint one  
18 or more veterinarians licensed pursuant to [chapter 169](#) in each  
19 county as assistant veterinarians. The secretary may also  
20 appoint ~~such~~ one or more special assistants as may be necessary  
21 in cases of emergency, including as provided in [section 163.3A](#).

22 Sec. \_\_\_\_\_. Section 163.3A, subsection 1, Code 2020, is  
23 amended to read as follows:

24 1. The department may provide veterinary emergency  
25 preparedness and response services necessary to prevent or  
26 control a serious threat to the public health, public safety,  
27 or the state's economy caused by the transmission of disease  
28 among ~~livestock as defined in [section 717.1](#) or agricultural~~  
29 ~~animals as defined in [section 717A.1](#)~~. The services may include  
30 measures necessary to ensure that all such animals carrying  
31 disease are properly identified, segregated, treated, or  
32 destroyed as provided in this Code.

33 Sec. \_\_\_\_\_. Section 163.3C, subsection 1, Code 2020, is  
34 amended by striking the subsection.

35 Sec. \_\_\_\_\_. Section 163.3C, subsection 2, unnumbered

1 paragraph 1, Code 2020, is amended to read as follows:

2 The department shall develop and establish a foreign animal  
3 disease preparedness and response strategy for use by the  
4 department in order to prevent, control, or eradicate the  
5 transmission of foreign animal diseases among populations  
6 of ~~livestock~~ animals. The strategy may be part of the  
7 department's veterinary emergency preparedness and response  
8 services as provided in [section 163.3A](#). The strategy shall  
9 provide additional expertise and resources to increase  
10 biosecurity efforts that assist in the prevention of a foreign  
11 animal disease outbreak in this state. In developing and  
12 establishing the strategy, the department shall consult with  
13 interested persons including but not limited to the following:

14 Sec. \_\_\_\_\_. Section 163.3C, subsection 3, Code 2020, is  
15 amended to read as follows:

16 3. The department shall implement the foreign animal  
17 disease preparedness and response strategy if necessary to  
18 prevent, control, or eradicate the transmission and incidence  
19 of foreign animal diseases that may threaten or actually  
20 threaten ~~livestock~~ animals in this state. In implementing  
21 the strategy, the department may utilize emergency response  
22 measures as otherwise required under [section 163.3A](#). The  
23 department may but is not required to consult with interested  
24 persons when implementing the strategy.

25 Sec. \_\_\_\_\_. NEW SECTION. 163.3D **Emergency measures —**  
26 **abandoned animals — authorization and seizure.**

27 1. *a.* The department may seize one or more abandoned  
28 animals pursuant to an authorization providing emergency  
29 measures to prevent or control the transmission of an  
30 infectious or contagious disease among any population or  
31 species of animals.

32 *b.* The authorization must be any of the following:

33 (1) A declaration or proclamation issued by the governor  
34 pursuant to chapter 29C, including as provided in section  
35 163.3A.

1 (2) An order issued by the secretary or the secretary's  
2 designee pursuant to a provision in this subtitle.

3 (3) Any other provision of law in this subtitle that  
4 requires the department to control the transmission of an  
5 infectious or contagious disease among a population or species  
6 of animals in this state.

7 c. If there is a conflict between a measure authorized to  
8 be taken under paragraph "a", that is less restrictive than the  
9 standards or procedures provided in this section, the measures  
10 authorized to be taken under paragraph "a" shall prevail.

11 2. The department may appoint veterinary assistants or  
12 special assistants as provided in section 163.3 as required to  
13 administer this section.

14 3. It is presumed that an abandoned animal belonging to a  
15 species subject to emergency measures as provided in subsection  
16 1 has been exposed to an infectious or contagious disease as  
17 provided in the authorization.

18 4. As part of the seizure of an abandoned animal, the  
19 department may take, impound, and retain custody of the animal,  
20 including by maintaining the animal in a manner and at a  
21 location determined by the department to be reasonable under  
22 the emergency circumstances. The department may take action as  
23 provided in this subtitle to ensure that all animals exposed to  
24 an infectious or contagious disease are properly identified,  
25 tested, segregated, treated, or destroyed as provided in this  
26 subtitle.

27 5. a. The department may seize an animal if the department  
28 has a reasonable suspicion the animal has been abandoned,  
29 including by entering onto public or private property or into a  
30 private motor vehicle, trailer, or semitrailer parked on public  
31 or private property, as provided in this subsection.

32 b. The department may enter onto private property or into  
33 a private motor vehicle, trailer, or semitrailer to seize an  
34 abandoned animal if the department obtains a search warrant  
35 issued by a court, or enters onto the premises in a manner

1 consistent with the laws of this state and the United States,  
2 including Article I, section 8, of the Constitution of the  
3 State of Iowa, or the fourth amendment to the Constitution of  
4 the United States.

5 c. An abandoned animal shall only be seized by the  
6 department pursuant to the following conditions:

7 (1) The department provides written notice of its  
8 abandonment determination to all reasonably identifiable  
9 interested persons. The department shall make a good-faith  
10 effort to provide the notice to interested persons by regular  
11 mail, hand delivery, telephone, electronic mail, or other  
12 reasonable means. The notice shall include all of the  
13 following:

14 (a) The name and address of the department.

15 (b) A description of the animal subject to seizure.

16 (c) The delivery date of the notice.

17 (d) A statement informing the interested person that the  
18 animal may be seized pursuant to this chapter within one day  
19 following the delivery date of the notice. The statement  
20 must specify a date, time, and location for delivery of the  
21 interested person's response designated by the department, as  
22 provided in this subsection.

23 (e) A statement informing the interested person that in  
24 order to avoid seizure of the animal, the person must respond  
25 to the notice in writing, stating that the animal has not been  
26 abandoned and identifying what measures are being taken to care  
27 for and manage the animal.

28 (2) Notwithstanding subparagraph (1), if the department  
29 determines that it is not feasible to provide direct notice  
30 of its abandonment determination to an interested person,  
31 the department shall deliver a constructive notice of the  
32 determination to that person by any reasonable manner, which  
33 may include posting the notice at or near the place where  
34 the animal is located. The department shall also post the  
35 constructive notice on the department's internet site.



1 of the continuance.

2 2. Upon a determination by the department that exigent  
3 circumstances exist, the dispositional proceeding may be  
4 conducted by an administrative law judge in the same manner  
5 as an emergency adjudicative proceeding pursuant to section  
6 17A.18A. The administrative law judge shall notify the  
7 department and all interested persons of the dispositional  
8 proceeding in a manner determined reasonable by the  
9 administrative law judge given the circumstances in the case.  
10 The procedures provided in this section may be supplemented  
11 or modified by a declaration or proclamation issued by the  
12 governor or an order issued by the secretary or the secretary's  
13 designee pursuant to section 163.3D.

14 3. *a.* A court or administrative law judge shall issue an  
15 order for the disposition of the animal after making any of the  
16 following determinations:

17 (1) That no interested person holds a legal interest in  
18 the seized animal. In that case, the animal shall be deemed  
19 abandoned and the order shall extinguish all prior legal  
20 interests in the animal. The order shall grant an undivided  
21 ownership interest in the animal free from any security  
22 interest or other agricultural lien or encumbrance to the  
23 department.

24 (2) That an interested person holds a legal interest in  
25 the seized animal, and the department has reasonable suspicion  
26 to believe that the animal has been exposed to an infectious  
27 or contagious disease. In that case, the order shall provide  
28 for the disposition of the animal in the same manner as if the  
29 department had identified the animal as having been exposed to  
30 the infectious or contagious disease under the authorization  
31 provided in section 163.3D.

32 (3) That a person holds a legal interest in the seized  
33 animal, and there is no reasonable suspicion that the seized  
34 animal has been exposed to an infectious or contagious disease.  
35 In that case, the order shall direct the department to transfer

1 custody of the animal to the interested person. In the event  
2 the animal is returned to the interested person, the department  
3 shall not be subject to any claim for damages caused by the  
4 seizure if the department's actions were taken pursuant to  
5 the department's emergency efforts to establish and maintain  
6 quarantine in response to a disease outbreak, as set forth in  
7 section 669.14, subsection 3.

8 *b.* A reasonable suspicion asserted by the department may  
9 be based on any credible evidence that shows the animal's  
10 possible exposure to an infectious or contagious disease or the  
11 animal was abandoned. This paragraph "b" does not require the  
12 department to conduct a test of an animal to determine whether  
13 an animal has been exposed.

14 *c.* If two or more interested parties may be transferred  
15 custody of an animal by the department pursuant to paragraph  
16 "a", subparagraph (3), the court or administrative law judge  
17 shall order the department to transfer the animal to the owner  
18 or otherwise to the interested person best able to care for the  
19 animal without prejudicing the rights of any other interested  
20 person. However, in any cause of action brought by an  
21 interested person contesting the order to transfer under this  
22 subsection, the department shall not be included as a party.

23 4. *a.* In a dispositional proceeding conducted by a court or  
24 administrative law judge under this section, or in a separate  
25 cause of action brought by the department against an interested  
26 person, the court or administrative law judge may award the  
27 department all of the following:

28 (1) An amount necessary to reimburse the department for  
29 expenses incurred in seizing and maintaining an abandoned  
30 animal as well as any costs for the disposition of the  
31 abandoned animal.

32 (2) Expenses related to the investigation and adjudication  
33 of the case.

34 *b.* In a dispositional proceeding conducted by a court under  
35 this section, or in a separate cause of action brought by the

1 department against an interested person, the court may award  
2 the department court costs and reasonable attorney fees.

3 *c.* An award ordered under this subsection shall be paid  
4 by an interested party who is transferred a seized animal by  
5 the court or administrative law judge, or the owner of the  
6 seized animal as determined by the court or administrative law  
7 judge. The amount awarded the department shall be subtracted  
8 from the proceeds, if any, received by the department from the  
9 disposition of the animal. Any amount awarded by a court shall  
10 be taxed as part of the costs of the cause of action.

11 *d.* If more than one interested person holds a legal interest  
12 in the animal, the court or administrative law judge shall  
13 calculate the respective contributions of the interested  
14 persons based upon the percentage of legal interest in the  
15 seized animal held by each interested person. The amount paid  
16 to the department shall be sufficient to allow the department  
17 to repay the livestock remediation fund as provided in section  
18 459.501 and fully reimburse the department for all costs, fees,  
19 and expenses incurred by the department under this section.

20 Sec. \_\_\_\_ . NEW SECTION. **163.3F Interference with official**  
21 **acts.**

22 1. A person shall not interfere with an official act of the  
23 department taken in the performance of a duty to prevent or  
24 control the transmission of an infectious or contagious disease  
25 among a population or species of animals, if the official act  
26 is authorized as part of any of the following:

27 *a.* A veterinary emergency preparedness and response service  
28 pursuant to section 163.3A.

29 *b.* A foreign animal disease preparedness and response  
30 strategy pursuant to section 163.3C.

31 *c.* An emergency measure pursuant to section 163.3D or  
32 163.3E.

33 2. Under this section, an official act of the department  
34 may be performed by a departmental employee, or a veterinary or  
35 special assistant appointed pursuant to section 163.3.



1       Sec. \_\_\_\_\_. NEW SECTION. 163.33 **Feral swine.**

2       1. "*Feral swine*" means any swine running at large.

3       2. A person shall not knowingly release swine to become  
4 feral swine.

5       3. Upon discovery of feral swine on public or private  
6 property, the department may destroy or order the destruction  
7 of the feral swine. However, the department shall not destroy  
8 the feral swine or order the feral swine's destruction, unless  
9 the department concludes, after conducting a reasonable inquiry  
10 in the area where the feral swine is located, that the feral  
11 swine's ownership cannot be determined. The department may  
12 call upon a peace officer or appropriate state or federal  
13 agency, including but not limited to the department of natural  
14 resources or the department of public safety, to enforce this  
15 section as set forth in section 159.16.

16       4. A person may destroy feral swine if the feral swine is  
17 on the person's property or is damaging the person's personal  
18 property. The person shall immediately notify the department  
19 of the destruction of the feral swine and allow for possible  
20 testing of the feral swine by the department.

21       5. This section shall not be construed to limit the powers  
22 of the department otherwise granted by law.

23       Sec. \_\_\_\_\_. Section 163.61, subsection 3, Code 2020, is  
24 amended by adding the following new paragraph:

25       NEW PARAGRAPH. *c.* A person who interferes with an official  
26 act as provided in section 163.3F shall be subject to a civil  
27 penalty of at least one hundred dollars but not more than ten  
28 thousand dollars. In the case of a continuing violation,  
29 each day of the continuing violation is a separate violation.  
30 However, a person shall not be subject to a civil penalty  
31 totaling more than two hundred fifty thousand dollars arising  
32 out of the same violation.

33       Sec. \_\_\_\_\_. Section 459.501, subsection 3, paragraph a, Code  
34 2020, is amended by adding the following new subparagraph:

35       NEW SUBPARAGRAPH. (3) (a) To allocate moneys to the

1 department of agriculture and land stewardship for the payment  
2 of expenses incurred by the department of agriculture and land  
3 stewardship associated with all of the following:

4 (i) Providing for seizure of animals pursuant to sections  
5 169.3D and 169.3E.

6 (ii) Court costs, reasonable attorney fees, and expenses  
7 related to the investigation and prosecution of the case  
8 arising from the seizure of animals.

9 (b) The department of natural resources shall allocate  
10 any amount of unencumbered and unobligated moneys demanded in  
11 writing by the department of agriculture and land stewardship  
12 as provided in this subparagraph. The department of natural  
13 resources shall complete the allocation upon receiving the  
14 demand.

15 (c) The department of agriculture and land stewardship  
16 shall repay the fund any amount received from an interested  
17 person pursuant to an order by a court in a dispositional  
18 proceeding conducted pursuant to section 163.3E.

19 Sec. \_\_\_\_\_. REPEAL. Section 166D.3, Code 2020, is repealed.

20 Sec. \_\_\_\_\_. CODE EDITOR DIRECTIVE.

21 1. The Code editor is directed to make the following  
22 transfer:

23 Section 163.3 to section 163.3G.

24 2. The Code editor shall correct internal references in the  
25 Code and in any enacted legislation as necessary due to the  
26 enactment of this section.

27 Sec. \_\_\_\_\_. CODE EDITOR DIRECTIVE. The Code editor shall  
28 divide chapter 163, subchapter I, into parts, including  
29 sections 163.1 and 163.2 as part A, sections 163.2A through  
30 163.5, including sections amended or enacted as provided in  
31 this division of this Act, as part B, and sections 163.6  
32 through 163.25 as part C.

33 Sec. \_\_\_\_\_. EFFECTIVE DATE. This division of this Act, being  
34 deemed of immediate importance, takes effect upon enactment.

35

## DIVISION II

1 FOOD OPERATION TRESPASS

2 Sec. \_\_\_\_ . NEW SECTION. 716.7A Food operation trespass.

3 1. As used in this section, unless the context otherwise  
4 requires:

5 a. "Apiary" and "bee" mean the same as defined in section  
6 160.1A.

7 b. "Food animal" means an animal belonging to the bovine,  
8 caprine, ovine, or porcine species; farm deer as defined in  
9 section 170.1; turkeys, chickens, or other poultry; fish or  
10 other aquatic organisms confined in private waters for human  
11 consumption; or bees.

12 c. "Food establishment", "food processing plant", and  
13 "farmers market" mean the same as defined in section 137F.1.

14 d. "Food operation" means any of the following:

15 (1) A location where a food animal is produced, maintained,  
16 or otherwise housed or kept, or processed in any manner.

17 (2) A location other than as described in subparagraph (1)  
18 where a food animal is kept, including an apiary, livestock  
19 market, vehicle or trailer attached to a vehicle, fair,  
20 exhibition, or a business operated by a person licensed to  
21 practice veterinary medicine pursuant to chapter 169.

22 (3) A location where a meat food product, poultry product,  
23 milk or milk product, eggs or an egg product, aquatic product,  
24 or honey is prepared for human consumption, including a food  
25 processing plant, a slaughtering establishment operating under  
26 the provisions of 21 U.S.C. §451 et seq. or 21 U.S.C. §601  
27 et seq.; or a slaughtering establishment subject to state  
28 inspection as provided in chapter 189A.

29 (4) A food establishment or farmers market that sells or  
30 offers for sale a meat food product, poultry product, milk  
31 or milk product, eggs or an egg product, aquatic product, or  
32 honey.

33 e. "Meat food product", "poultry product", and "prepared"  
34 mean the same as defined in section 189A.2.

35 2. A person commits food operation trespass by entering

1 or remaining on the property of a food operation without the  
2 consent of a person who has real or apparent authority to allow  
3 the person to enter or remain on the property.

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

5 a. A person entering a right-of-way, if the person has not  
6 been notified or requested by posted signage or other means to  
7 abstain from entering onto the right-of-way or to vacate the  
8 right-of-way.

9 b. A person having lawful authority to enter onto the  
10 property of the food operation, including but not limited to a  
11 federal, state, or local government official.

12 c. A person who is given express permission by the owner of  
13 the food operation to enter onto or remain on the property of  
14 the food operation.

15 d. A person employed by a food operation while acting in the  
16 course of employment.

17 Sec. \_\_\_\_\_. Section 716.8, Code 2020, is amended by adding the  
18 following new subsection:

19 NEW SUBSECTION. 8. a. For a first offense, a person who  
20 commits food operation trespass as provided in section 716.7A  
21 is guilty of an aggravated misdemeanor.

22 b. For a second or subsequent offense, a person who commits  
23 food operation trespass as provided in section 716.7A is guilty  
24 of a class "D" felony.

25 Sec. \_\_\_\_\_. EFFECTIVE DATE. This division of this Act, being  
26 deemed of immediate importance, takes effect upon enactment.>>

27 2. By striking page 18, line 34, through page 19, line  
28 3, and inserting: <<An Act relating to agriculture and  
29 food, including the powers and duties of the department  
30 of agriculture and land stewardship, providing penalties,  
31 making penalties applicable, and including effective date  
32 provisions.>>

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KLEIN of Washington