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4-8-93 Senate Comm/Do Pass W/53476

HOUSE FILE 637
BY COMMITTEE ON AGRICULTURE

MAR 24 1993

Place On Calendar

(SUCCESSOR TO HF 383) *and*
(SUCCESSOR to HSB 46)

(p. 1070)
Passed House, Date 4-6-93 *(p. 1251)* Passed Senate, Date 4/20/93
Vote: Ayes 99 Nays 0 Vote: Ayes 34 Nays 14
Approved April 25, 1994
Repassed 100-0 4-29-93 (p. 180) *Passed 4-14-94 vote 96-0* *Passed 4-15-94 vote 47-0*
(p. 180) A BILL FOR

1 An Act relating to the care of animals including livestock, by
2 prohibiting the neglect of animals, providing for the rescue,
3 maintenance, and disposition of neglected animals, providing
4 penalties, and providing for the repeal of sections.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6 House Conf Comm. P348 Senate Conf Comm. (P. 423)
7 *2/24/94* *2/28/94*
8 *Leig* *Drick*
9 *Brantad* *Husak*
10 *Braun* *Rindan*
11 *Fray* *Hester*
12 *Marty* *Banks*

HF 637

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1 Section 1. Section 162.13, unnumbered paragraph 2, Code
2 1993, is amended to read as follows:

3 Failure of any pound, research facility, animal shelter,
4 pet shop, boarding kennel, commercial kennel, commercial
5 breeder, public auction, or dealer, to adequately house, feed,
6 or water dogs, cats, or vertebrate animals in the person's or
7 facility's possession or custody is a simple misdemeanor. The
8 animals are subject to seizure and impoundment and may be sold
9 or destroyed by euthanasia at the discretion of the secretary
10 and the failure is also grounds for revocation or suspension
11 of license or registration after public hearing. The
12 commission of an act declared to be an unlawful practice under
13 section 714.16 or chapter ~~717~~ 717B, by a person or facility
14 licensed or registered under this chapter is grounds for
15 revocation or suspension of the license or registration
16 certificate. Dogs, cats, and other vertebrates upon which
17 euthanasia is permitted by law may be destroyed by persons or
18 facilities subject to this chapter or chapter 169, and only by
19 euthanasia.

20 Sec. 2. NEW SECTION. 331.308 NEGLECTED ANIMALS.

21 A county may rescue, provide maintenance, or dispose of
22 neglected livestock or another animal, as provided in chapters
23 717 and 717B.

24 Sec. 3. Section 331.653, subsection 21, Code 1993, is
25 amended to read as follows:

26 21. Destroy a neglected or estray disabled animal as
27 ~~provided in section 169B.49.~~

28 Sec. 4. NEW SECTION. 364.22A NEGLECTED ANIMALS.

29 A city may rescue, provide maintenance, or dispose of
30 neglected livestock or another animal, as provided in chapters
31 717 and 717B.

32 Sec. 5. Section 670.4, Code 1993, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 13. A claim based on an act or omission
35 by a county or city pursuant to section 717.2A or chapter 717B

1 relating to either of the following:

2 a. Rescuing neglected livestock or another animal by a law
3 enforcement officer.

4 b. Maintaining or disposing of neglected livestock or
5 another animal by a county or city.

6 Sec. 6. NEW SECTION. 717.1A DEFINITIONS.

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

9 1. "Law enforcement officer" means a regularly employed
10 member of a police force of a city or county, including a
11 sheriff, who is responsible for the prevention and detection
12 of crime and the enforcement of the criminal laws of this
13 state.

14 2. "Livestock" means an animal belonging to the bovine,
15 caprine, equine, ovine, or porcine species or poultry.

16 3. "Livestock care provider" means a person designated by
17 a county or city to provide care to livestock which is rescued
18 by the county or city pursuant to section 717.2A.

19 4. "Local authority" means a city as defined in section
20 362.2 or a county as provided in chapter 331.

21 5. "Maintenance" means to provide on-site or off-site care
22 to neglected livestock.

23 Sec. 7. Section 717.2, Code 1993, is amended to read as
24 follows:

25 717.2 ~~CRUELTY-TO-ANIMALS~~ LIVESTOCK NEGLECT.

26 1. A person who impounds or confines livestock, in any
27 place, ~~a-domestic-animal-or-fowl,-or-an-animal-or-fowl-subject~~
28 ~~to-section-481A:60,-or-dog-or-cat,~~ and ~~fails~~ does any of the
29 following commits the offense of livestock neglect:

30 a. Fails to supply ~~the-animal~~ livestock during confinement
31 with a sufficient quantity of food, ~~and or~~ water,-or-who
32 fails.

33 b. Fails to provide ~~a-dog-or-cat~~ livestock with adequate
34 shelter,-or-who-tortures,-torments,-deprives appropriate care
35 according to customary animal husbandry practices.

1 c. Deprives livestock of necessary sustenance, mutilates,
2 overdrives, overloads, drives when overloaded, beats,

3 d. Beats or kills an animal livestock by any means which
4 causes causes unjustified pain, distress, or suffering, whether
5 intentionally or negligently, commits the offense of cruelty
6 to animals.

7 2. A person who commits the offense of cruelty to animals
8 livestock neglect is guilty of a simple misdemeanor for each
9 violation. A person who intentionally commits the offense of
10 cruelty to animals livestock neglect which results in serious
11 injury to or the death of an animal livestock is guilty of a
12 serious misdemeanor for each violation.

13 Sec. 8. NEW SECTION. 717.2A NEGLECT OF LIVESTOCK.

14 1. A law enforcement officer after consulting with a
15 veterinarian licensed pursuant to chapter 169 may rescue
16 livestock neglected in violation of section 717.2 on public or
17 private property. The officer may enter onto property of a
18 person to rescue neglected livestock, if the officer obtains a
19 search warrant issued by a court, or enters onto the premises
20 in a manner consistent with the laws of this state and the
21 United States, including Article I, section 8, of the
22 constitution of the state of Iowa or the fourth amendment to
23 the constitution of the United States.

24 2. A local authority may provide for the maintenance of
25 neglected livestock. The local authority may contract with a
26 livestock care provider for the maintenance of the neglected
27 livestock. The local authority shall pay the livestock care
28 provider for the livestock's maintenance regardless of
29 proceeds received from the sale of the livestock or any
30 reimbursement ordered by a court, pursuant to section 717.5.

31 3. The livestock shall be subject to disposition as
32 required by a court, pursuant to section 717.5.
33 Notwithstanding chapter 579, moneys from the sale of neglected
34 livestock shall be paid to the local authority before
35 satisfying indebtedness secured by any security interest in or

1 lien on the livestock. Neglected livestock ordered to be
2 destroyed shall be destroyed only by euthanasia as defined in
3 section 162.2.

4 4. A proceeding required to obtain an order pursuant to
5 this section shall be expedited as provided in section 717.5.

6 5. A person who neglects livestock is guilty of the
7 offense of animal neglect as provided in section 717.2.

8 Sec. 9. Section 717.5, Code 1993, is amended to read as
9 follows:

10 717.5 DISPOSITION OF NEGLECTED AND ABUSED-ANIMALS INJURED
11 LIVESTOCK.

12 ~~If~~ In addition to the criminal penalty imposed on a person
13 ~~is-found-guilty-of-a~~ in violation of this chapter, the a court
14 shall order the disposition of the-neglected-or-abused animal
15 shall-be-determinea-by-the-court livestock which is the
16 subject of the wrongful treatment. A court shall order the
17 disposition of neglected livestock with all possible urgency
18 following an application or petition to the court by a local
19 authority. The court may order the sale of the neglected
20 livestock. The court may order a person in violation of
21 section 717.2A to pay an amount which shall not be more than
22 the expenses incurred maintaining neglected livestock rescued
23 pursuant to section 717.2A, plus reasonable expenses related
24 to the investigation and prosecution of the case which shall
25 be paid to reimburse expenses incurred by the local authority.
26 The amount shall be subtracted from proceeds received from the
27 sale of the livestock ordered by the court. If the person in
28 violation of this section is a landowner, the local authority
29 may submit any portion of the unpaid amount to the clerk of
30 the county board of supervisors who shall report the amount to
31 the county auditor and county treasurer. The amount shall be
32 placed upon the tax books, and collected with interest and
33 penalties after due, in the same manner as other unpaid
34 property taxes. The county shall reimburse a city within
35 thirty days from the collection of the property taxes.

1 Sec. 10. NEW SECTION. 717B.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Animal" means a nonhuman vertebrate which does not
5 include livestock as defined in section 717.1A.

6 2. "Animal care provider" means a person designated by a
7 county or city to provide care to an animal rescued by an
8 officer pursuant to section 717B.3.

9 3. "Local authority" means a city as defined in section
10 362.2 or a county as provided in chapter 331.

11 4. "Maintenance" means to provide on-site or off-site care
12 to a neglected animal.

13 5. "Officer" means either of the following:

14 a. A regularly employed member of a police force of a city
15 or county, including a sheriff, who is responsible for the
16 prevention and detection of crime and the enforcement of the
17 criminal laws of this state.

18 b. An animal warden as defined in section 162.2.

19 Sec. 11. NEW SECTION. 717B.2 INJURY TO ANIMALS OWNED BY
20 ANOTHER PERSON.

21 1. A person shall not intentionally injure or destroy an
22 animal owned by another person, in any manner, including but
23 not limited to, poisoning or wounding the animal by using a
24 firearm or trap.

25 2. This section does not apply to an immediate response by
26 the person to an attack from an animal which is bred or
27 trained to attack persons, which has a known propensity or
28 disposition to attack and cause injury to a person, which
29 chases or approaches a person upon public property in a
30 menacing fashion, or which threatens to attack a person on
31 public or private property. The section also does not apply
32 to an action taken to carry out an order issued by a court; in
33 compliance with section 351.26 or 351.27; taken by a licensed
34 veterinarian practicing veterinary medicine as provided in
35 chapter 169; taken by a pound or animal shelter as defined in

1 section 162.2; an institution as defined in section 145B.1 or
2 a research facility as defined in section 162.2, provided that
3 the institution or research facility performs its duties
4 within the scope of accepted practices of disciplines
5 associated with the institution or research facility; or taken
6 under any other provision of law which allows the conduct.

7 3. A person who violates this section is guilty of an
8 aggravated misdemeanor.

9 Sec. 12. NEW SECTION. 717B.3 ANIMAL NEGLECT.

10 1. A person who impounds or confines an animal in any
11 manner and who does any of the following commits the offense
12 of animal neglect:

13 a. Fails to provide the animal with daily food of
14 sufficient quality and quantity to prevent unnecessary or
15 unjustifiable suffering by the animal.

16 b. Fails to provide the animal with daily water of
17 sufficient quality and quantity to prevent unnecessary or
18 unjustifiable suffering by the animal.

19 c. Fails to provide the animal with proper shelter from
20 the elements as required to prevent unnecessary or
21 unjustifiable physical pain, suffering, or death.

22 d. Fails to provide the necessities of life, including but
23 not limited to reasonable veterinary care sufficient to
24 prevent unnecessary or unjustifiable physical pain or
25 suffering by the animal.

26 e. Inflicts severe or prolonged physical abuse upon the
27 animal to a degree that causes unnecessary or unjustifiable
28 pain, suffering, or death.

29 f. Mutilates the physical appearance of the animal unless
30 the person is a licensed veterinarian practicing veterinary
31 medicine as provided in chapter 169 or the person is acting
32 under the direction of the veterinarian.

33 2. This section does not apply to an institution as
34 defined in section 145B.1 or a research facility as defined in
35 section 162.2, provided that the institution or research

1 facility performs functions within the scope of accepted
2 practices of disciplines associated with the institution or
3 research facility.

4 3. A person who commits the offense of animal neglect is
5 guilty of a serious misdemeanor. A person who intentionally
6 commits the offense of animal neglect which results in serious
7 injury to or the death of an animal is guilty of an aggravated
8 misdemeanor.

9 Sec. 13. NEW SECTION. 717B.4 RESCUE OF NEGLECTED
10 ANIMALS.

11 1. An officer, after consulting with a veterinarian
12 licensed pursuant to chapter 169, may rescue an animal which
13 is neglected in violation of section 717B.3 on public or
14 private property. The officer may enter onto property of a
15 person to rescue a neglected animal, if the officer obtains a
16 search warrant issued by a court, or enters onto the premises
17 in a manner consistent with the laws of this state and the
18 United States, including Article I, section 8, of the
19 Constitution of the state of Iowa or the fourth amendment to
20 the Constitution of the United States.

21 2. A local authority may provide for the maintenance of
22 neglected animals. The local authority may contract with an
23 animal care provider for the maintenance of the neglected
24 animal. The local authority shall pay the animal care
25 provider for the animal's maintenance regardless of proceeds
26 received from the sale of the animal, or any reimbursement
27 ordered by a court, pursuant to section 717B.7.

28 3. An animal shall be subject to disposition as required
29 by a court pursuant to section 717B.7. Moneys from the sale
30 of an animal shall be paid to the local authority before
31 satisfying indebtedness secured by any security interest in or
32 lien on the animal. A neglected animal ordered to be
33 destroyed shall be destroyed only by euthanasia as defined in
34 section 162.2.

35 4. A proceeding required to obtain an order pursuant to

1 this section shall be expedited as provided in section 717B.7.

2 5. A person who neglects an animal is guilty of the
3 offense of animal neglect as provided in section 717B.3.

4 Sec. 14. NEW SECTION. 717B.5 EXHIBITIONS INVOLVING THE
5 TORMENT OF ANIMALS.

6 A person shall not arrange, promote, or stage an exhibition
7 at which an animal is tormented or subjected to physical abuse
8 for the entertainment of spectators. A person who violates
9 this section is guilty of a serious misdemeanor.

10 Sec. 15. NEW SECTION. 717B.6 ABANDONMENT OF CATS AND
11 DOGS -- PENALTIES.

12 A person who has ownership or custody of a cat or dog shall
13 not abandon the cat or dog, except the person may deliver the
14 cat or dog to another person who will accept ownership and
15 custody or the person may deliver the cat or dog to an animal
16 shelter or pound as defined in section 162.2. A person who
17 violates this section is guilty of a simple misdemeanor.

18 Sec. 16. NEW SECTION. 717B.7 DISPOSITION OF INJURED AND
19 NEGLECTED ANIMALS.

20 In addition to the criminal penalty imposed on a person in
21 violation of this chapter, a court shall order the disposition
22 of an animal which is the subject of the wrongful treatment.
23 A court shall order the disposition of a neglected animal with
24 all possible urgency following an application or petition to
25 the court by a local authority. The court may order the sale
26 of the neglected animal. The court may order a person in
27 violation of section 717B.3 to pay an amount which shall not
28 be more than the expenses incurred maintaining the animal
29 rescued pursuant to section 717B.4, plus reasonable expenses
30 related to the investigation and the prosecution of the case
31 which shall be paid to reimburse expenses incurred by the
32 local authority. The amount shall be subtracted from proceeds
33 received from the sale of the neglected animal ordered by the
34 court. If the person in violation of the section is a
35 landowner, the local authority may submit any portion of the

1 unpaid amount to the clerk of the county board of supervisors
2 who shall report the amount to the county auditor and the
3 county treasurer. The amount shall be placed upon the tax
4 books, and collected after due, with interest and penalties,
5 in the same manner as other unpaid property taxes. The county
6 shall reimburse a city within thirty days from the collection
7 of the property taxes.

8 Sec. 17. NEW SECTION. 717B.8 INJURY OR INTERFERENCE WITH
9 A POLICE SERVICE DOG.

10 1. A person who knowingly, and willfully or maliciously
11 torments, strikes, administers a nonpoisonous desensitizing
12 substance to, or otherwise interferes with a police service
13 dog, without inflicting serious injury on the dog, commits a
14 simple misdemeanor.

15 2. A person who knowingly, and willfully or maliciously
16 tortures, injures so as to disfigure or disable, kills, or
17 administers poison to a police service dog, commits a serious
18 misdemeanor.

19 3. As used in this section, "police service dog" means a
20 dog used by a peace officer in the performance of the
21 officer's duties, whether or not the dog is on duty.

22 4. This section does not apply to a peace officer or
23 veterinarian who terminates the life of such a dog for the
24 purpose of relieving the dog of undue pain or suffering, or to
25 a person who justifiably acts in defense of self or another.

26 Sec. 18. REPEALS. Sections 169B.49, 717.1, 717.3, 717.4,
27 and 717.6, Code 1993, are repealed.

28 EXPLANATION

29 This bill amends provisions relating to the care and treat-
30 ment of animals. Currently, chapter 717 prohibits a broad
31 range of conduct involving injury to animals, cruelty to
32 animals, the promotion of exhibitions involving tormenting
33 animals, the abandonment of dogs and cats, the disposition of
34 neglected and abused animals, and injuring or interfering with
35 police service dogs. This bill provides that chapter 717

1 applies only to livestock. The bill eliminates references to
2 overdriving, overloading, or mutilating an animal. It
3 requires that the livestock must receive appropriate care
4 according to customary animal husbandry practices. The bill
5 repeals a number of sections in the chapter relating to
6 injuring an animal of another person, promoting exhibits and
7 fights, prohibiting the abandonment of cats and dogs, and
8 prohibiting injuring or interfering with a police service dog.

9 The bill creates a new chapter 717B which applies to
10 conduct directed at animals other than livestock. The bill
11 includes provisions which prohibit the injury to an animal by
12 another person, and includes a number of exceptions. The bill
13 creates an offense of animal neglect which requires a person
14 who impounds or confines an animal to provide an animal with
15 food and water, shelter, and reasonable veterinary care. The
16 person is prohibited from inflicting severe or prolonged
17 physical abuse upon the animal or mutilating the physical
18 appearance of the animal. The bill also establishes
19 exceptions to these requirements. The section does not apply
20 to research institutions. The bill includes provisions
21 prohibiting exhibitions involving the torment of animals.
22 Sections relating to the abandonment of cats and dogs and
23 police service dogs are transferred to this chapter.

24 The bill provides for the rescue of neglected livestock
25 under chapter 717 or a neglected animal under chapter 717B,
26 and for the maintenance and disposition of the creature. In
27 the case of livestock, the rescue must be performed by a law
28 enforcement officer. In the case of other animals, the rescue
29 must be performed by a law enforcement officer or an animal
30 warden appointed or employed by a political subdivision. The
31 bill provides for satisfying an indebtedness arising from the
32 care of the creature before satisfying a lien on or security
33 interest in the creature. A court is required to order the
34 disposition of the creature with all possible urgency. The
35 court may order the sale of the creature, or order the person

1 neglecting the creature to pay costs associated with the
2 creature's maintenance. If the person in violation is a
3 landowner, the county or city may submit any portion of the
4 unpaid amount to the clerk of the county board of supervisors.
5 The amount must be placed upon the tax books, and collected
6 with interest and penalties after due, in the same manner as
7 other unpaid property taxes.

8 The bill repeals a provision which allows a person to care
9 for or remove a neglected animal belonging to another person.

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SENATE AMENDMENT TO HOUSE FILE 637

H-4094

1 Amend House File 637, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 19 the
4 following:

5 "Sec. ____ . NEW SECTION. 266.51 DEFINITIONS.

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

8 1. "Administrator" means the president of Iowa
9 state university of science and technology, or a
10 person designated by the president to carry out the
11 provisions of this division.

12 2. "Livestock" means an animal belonging to the
13 bovine, caprine, equine, ovine, or porcine species, or
14 poultry.

15 3. "Specialist" means an animal agriculture
16 specialist employed pursuant to section 266.52.

17 Sec. ____ . NEW SECTION. 266.52 ADMINISTRATION --
18 SPECIALISTS.

19 The administrator shall appoint and direct animal
20 agriculture specialists who have knowledge of
21 livestock waste management and laws, regulations, and
22 practices affecting livestock production operations.

23 Sec. ____ . NEW SECTION. 266.53 LIVESTOCK
24 PRODUCERS ASSISTANCE PROGRAM.

25 1. A livestock producers assistance program is
26 established. The administrator shall administer the
27 program, and direct specialists to assist livestock
28 producers participating in the program according to
29 procedures established by the administrator. A
30 specialist shall conduct an on-site evaluation of the
31 producer's livestock production operations for
32 purposes of analyzing the operation's waste management
33 system, and shall make recommendations relating to
34 improving waste management practices and procedures.
35 The administrator may establish procedures and
36 criteria required for producers participating in the
37 program.

38 2. The administrator shall establish a schedule of
39 fees which shall be paid by or on behalf of livestock
40 producers who participate in the program. The fees
41 may vary according to the type of services provided or
42 according to the length of time that the producer
43 participates in the program. The fees shall be
44 deposited in an account administered by Iowa state
45 university of science and technology and used solely
46 for carrying out this program as directed by the
47 administrator. Section 8.33 does not apply to moneys
48 deposited into the account. A person paying the fee
49 shall be delivered a receipt for payment of services
50 provided under the program.

H-4094

-1-

H-4094

Page 2

1 Sec. ____ . NEW SECTION. 266.54 LIVESTOCK WASTE

2 IMPACT ANALYSIS

3 1. The administrator shall direct specialists to
4 conduct livestock waste impact analyses. An analysis
5 shall consist of an on-site evaluation of the
6 livestock waste management system of the producer, and
7 a written report based on the evaluation which shall
8 include any recommendations relating to improving
9 waste management practices and procedures.

10 2. The administrator shall direct a specialist to
11 conduct a livestock waste impact analysis, upon
12 request by one of the following:

13 a. A livestock producer who is party to a
14 controversy or case under chapter 455B or a party to a
15 dispute under chapter 654B which involves an action
16 which is alleged to be a nuisance interfering with the
17 enjoyment of another person.

18 b. The department of natural resources or the
19 attorney general who is a party to a controversy or
20 case under chapter 455B, if another party to the
21 controversy or case is a livestock producer.

22 c. The farm mediation service mediating a dispute
23 under chapter 654B which involves an action alleged to
24 be a nuisance interfering with the enjoyment of a
25 person who is a party to the dispute.

26 d. A party to a dispute under chapter 654B which
27 involves an action alleged to be a nuisance
28 interfering with the enjoyment of the party.

29 3. a. The administrator may require that requests
30 include information required by the administrator, be
31 submitted on forms prescribed by the administrator,
32 and be submitted according to procedures required by
33 the administrator. The request may include a
34 statement explaining special circumstances which
35 require expedited action. A person submitting a
36 request shall promptly notify the administrator if the
37 request has been withdrawn.

38 b. The administrator shall promptly answer the
39 person submitting the request that the request has
40 been accepted or refused. If the request is accepted,
41 the answer shall state whether an analysis is expected
42 to be delayed, and the estimated date that the delayed
43 analysis is expected to be delivered. The analysis
44 shall be delivered to the person submitting the
45 request within twenty days from receipt of the request
46 by the administrator, unless the analysis is delayed.
47 A copy of the analysis shall be provided to any other
48 party to a controversy or case under chapter 455B, or
49 to another party to a dispute and the farm mediation
50 service mediating a dispute under chapter 654B.

H-4094

-2-

H-4094

Page 3

1 c. The administrator shall determine the priority
2 to be assigned a request and shall develop a system of
3 priorities for completing analyses, including the
4 performance of evaluations and the preparation of
5 reports. The administrator shall consult with the
6 department of natural resources, the attorney general,
7 and the farm mediation service in developing the
8 system. The administrator may refuse to accept a
9 request based upon the system of priorities.

10 4. An animal agriculture specialist shall not
11 enter onto the property where a livestock production
12 operation is located without the consent of the owner.
13 If the owner does not consent to the evaluation, the
14 analysis shall include the owner's denial of the
15 evaluation as noted by the specialist in the report.

16 5. Verbal or written information relating to the
17 evaluation and information contained in the analysis
18 is confidential communication, including information
19 transmitted between the administrator and a specialist
20 or staff of the administrator, information transmitted
21 by a specialist discussing a controversy or case with
22 parties under chapter 455B, or a dispute in a
23 mediation proceeding under chapter 654B. The
24 administrator, staff, or a specialist shall not be
25 examined in any judicial or administrative or judicial
26 proceeding regarding confidential communications, and
27 is not subject to administrative or judicial process
28 requiring the disclosure of confidential
29 communications. An analysis shall not be admitted
30 into evidence in an administrative or judicial
31 proceeding.

32 6. This section does not require the department of
33 natural resources or the attorney general to delay the
34 prosecution of a controversy or case under chapter
35 455B, or the referral of a case by the department to
36 the attorney general under section 455B.109. This
37 section also does not require a delay in mediation
38 proceedings as provided in chapter 654B. The
39 department or attorney general may consider an
40 available analysis in making determinations regarding
41 the controversy or case, including but not limited to
42 the assessment or collection of a penalty, the
43 prosecution of a case, or a settlement with the
44 opposing party. The department or attorney general is
45 not required to change the findings of its
46 investigation or a penalty sought or assessed under
47 chapter 455B because of the analysis. The parties to
48 a dispute in mediation may also consider an available
49 analysis to the extent agreed to by the parties.

50 7. Iowa state university of science and technology

H-4094

-3-

H-4094

Page 4

1 is required to carry out this section only to the
2 extent moneys are appropriated or contributed for the
3 purposes of carrying out this section."

4 2. Page 2, by striking lines 28 through 32 and
5 inserting the following: "~~to-section-481A-60,-or-dog~~
6 ~~or-cat, and fails-to-supply-the-animal-during~~
7 ~~confinement-with-a-sufficient-quantity-of-feed,-and~~
8 ~~water,-or-who-fails~~ does any of the following commits
9 the offense of livestock neglect:".

10 3. Page 2, lines 34 and 35, by striking the words
11 "appropriate care according to" and inserting the
12 following: "care consistent with".

13 4. Page 3, line 3, by striking the word "Beats"
14 the and inserting the following: "Repeatedly beats".

15 5. Page 3, line 7, by inserting before the word
16 "commits" the following: "intentionally".

17 6. By striking page 5, line 1, through page 8,
18 line 9, and inserting the following:

19 "Sec. ____ . NEW SECTION. 717B.1 ANIMAL DEFINED.

20 As used in this chapter, "animal" means a nonhuman
21 vertebrate which does not include livestock as defined
22 in section 717.1A; does not include game, fur-bearing
23 animals, fish, amphibians, or reptiles, all as defined
24 in section 481A.1; and does not include species of
25 nongame declared to be a nuisance pursuant to section
26 481A.42.

27 Sec. ____ . NEW SECTION. 717B.2 CRUELTY TO
28 ANIMALS.

29 A person who impounds or confines, in any place, an
30 animal and fails to supply the animal during
31 confinement with a sufficient quantity of food, and
32 water, or who fails to provide a dog or cat with
33 adequate shelter, or who tortures, torments, deprives
34 of necessary sustenance, mutilates, beats, or kills an
35 animal by any means which cause unjustified pain,
36 distress, or suffering, whether intentionally or
37 negligently, commits the offense of cruelty to
38 animals.

39 A person who commits the offense of cruelty to
40 animals is guilty of a simple misdemeanor. A person
41 who intentionally commits the offense of cruelty to
42 animals which results in serious injury to or the
43 death of an animal is guilty of a serious misdemeanor.

44 Sec. ____ . NEW SECTION. 717B.5 DISPOSITION OF
45 NEGLECTED AND ABUSED ANIMALS.

46 If a person is found guilty of a violation of this
47 chapter, the disposition of the neglected or abused
48 animal shall be determined by a court.

49 Sec. ____ . NEW SECTION. 717B.6 NEGLECTED ANIMALS
50 -- DISABLED ANIMALS KILLED.

H-4094

-4-

H-4094

Page 5

1 1. An official designated by a county or city may
2 take charge of an animal when the owner fails to
3 properly take care and provide for it, and may furnish
4 the animal with proper care, either on the person's
5 own premises or on the premises of the owner. The
6 county or city has a lien on the animal for the care,
7 and the reasonable value of the care may be collected
8 by the county or city from the owner.

9 2. A peace officer or officer of a society for the
10 prevention of cruelty to animals, may humanely destroy
11 a disabled animal that is neglected or stray."

12 7. Page 8, line 13, by inserting after the word
13 "not" the following: "intentionally".

14 8. By striking page 8, line 18, through page 9,
15 line 7.

16 9. Page 9, by striking line 26, and inserting the
17 following:

18 "Sec. ____ . REPEALS. Sections 169B.49, 717.4,".

19 10. Page 9, by inserting after line 27, the
20 following:

21 "Sec. ____ . TRANSFER OF SECTIONS RELATING TO
22 CRUELTY OR ABUSE TO ANIMALS. The Code editor shall
23 transfer sections 717.1, and 717.3, Code 1993, to
24 chapter 717B, as created in this Act, and shall
25 organize the sections of the chapter in such a manner
26 as to enhance their readability."

27 11. Title page, line 4, by inserting after the
28 word "repeal" the following: "and transfer".

29 12. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4094 FILED APRIL 20, 1993

House Concurred
4-29-93

(P. 1807)

Senate Refused

1/31/94 (P. 155)

House Insists
2/23/94 *(P. 338)*

HOUSE FILE 637

H-4204

1 Amend the Senate amendment, H-4094, to House File
2 637, as passed by the House, as follows:

3 1. Page 1, by inserting after line 4 the
4 following:

5 ""Sec. ____ . NEW SECTION. 169B.50 DISPOSITION AND
6 DESTRUCTION OF ABANDONED OR PERMANENTLY DISTRESSED
7 LIVESTOCK AND OTHER ANIMALS.

8 1. A county or city may dispose of or destroy
9 livestock, as defined in section 717.1A, which has
10 been abandoned. A county or city or an animal shelter
11 or pound, as defined in section 162.1, may dispose of
12 or destroy any other animal, as defined in section
13 717B.1, which has been abandoned.

14 2. A county or city may provide for the immediate
15 destruction of livestock and a county or city or an
16 animal shelter or pound may provide for the
17 destruction of any other animal as provided in
18 subsection 1, if at the time of the destruction, the
19 owner of the livestock or other animal is absent or
20 unable to care for the livestock or other animal, and
21 the livestock or other animal is permanently
22 distressed by disease or injury to a degree that would
23 result in severe and prolonged suffering.

24 The destruction of livestock or another animal as
25 provided in this section shall be accomplished by a
26 humane method which may be by euthanasia as defined in
27 section 162.2."

28 2. Page 4, line 14, by striking the words "the
29 and" and inserting the following: "and".

30 3. Page 4, by inserting after line 14, the
31 following:

32 " ____ . Page 3, by inserting after line 6 the
33 following:

34 " ____ . This section does not apply to an
35 institution, as defined in section 145B.1, or a
36 research facility, as defined in section 162.2,
37 provided that the institution or research facility
38 performs functions within the scope of accepted
39 practices of disciplines associated with the
40 institution or research facility."

41 4. Page 4, by inserting after line 16 the
42 following:

43 " ____ . Page 4, line 2, by striking the word "only"
44 and inserting the following: "by a humane method
45 which may be"."

46 5. Page 4, line 16, by striking the word
47 "commits" and inserting the following: "commits".

48 6. By striking page 4, line 17 through page 5,
49 line 28 and inserting the following:

50 " ____ . Page 4, line 10, by striking the words "AND

H-4204

H-4204

Page 2

1 ~~ABUSED-ANIMALS INJURED~~ and inserting the following:
 2 ~~"AND-ABUSED-ANIMALS"~~.
 3 _____ Page 4, lines 15 and 16, by striking the
 4 words "which is the subject of the wrongful treatment"
 5 and inserting the following: "neglected by the person"
 6 as provided in section 717.2".
 7 _____ Page 5, line 5, by inserting after the
 8 figure "717.1A" the following: "; does not include
 9 game, fur-bearing animals, fish, amphibians, or
 10 reptiles, all as defined in section 481A.1; and does
 11 not include species of nongame declared to be a
 12 nuisance pursuant to section 481A.42".
 13 _____ Page 8, line 13, by inserting after the word
 14 "not" the following: "intentionally".
 15 _____ Page 8, by striking line 22, and inserting
 16 the following: "of an animal neglected by the person
 17 as provided in section 717.2.""
 18 7. By renumbering as necessary.

By GREIG of Emmet

H-4204 FILED APRIL 26, 1993

Adopted
4/29/93
(P. 1807)

HOUSE FILE 637

S-3470

1 Amend House File 637, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 19 the
4 following:

5 "Sec. ____ . NEW SECTION. 266.51 DEFINITIONS.

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

8 1. "Administrator" means the president of Iowa
9 state university of science and technology, or a
10 person designated by the president to carry out the
11 provisions of this division.

12 2. "Livestock" means an animal belonging to the
13 bovine, caprine, equine, ovine, or porcine species, or
14 poultry.

15 3. "Specialist" means an animal agriculture
16 specialist employed pursuant to section 266.52.

17 Sec. ____ . NEW SECTION. 266.52 ADMINISTRATION --
18 SPECIALISTS.

19 The administrator shall appoint and direct animal
20 agriculture specialists who have knowledge of
21 livestock waste management and laws, regulations, and
22 practices affecting livestock production operations.

23 Sec. ____ . NEW SECTION. 266.53 LIVESTOCK
24 PRODUCERS ASSISTANCE PROGRAM.

25 1. A livestock producers assistance program is
26 established. The administrator shall administer the
27 program, and direct specialists to assist livestock
28 producers participating in the program according to
29 procedures established by the administrator. A
30 specialist shall conduct an on-site evaluation of the
31 producer's livestock production operations for
32 purposes of analyzing the operation's waste management
33 system, and shall make recommendations relating to
34 improving waste management practices and procedures.
35 The administrator may establish procedures and
36 criteria required for producers participating in the
37 program.

38 2. The administrator shall establish a schedule of
39 fees which shall be paid by or on behalf of livestock
40 producers who participate in the program. The fees
41 may vary according to the type of services provided or
42 according to the length of time that the producer
43 participates in the program. The fees shall be
44 deposited in an account administered by Iowa state
45 university of science and technology and used solely
46 for carrying out this program as directed by the
47 administrator. Section 8.33 does not apply to moneys
48 deposited into the account. A person paying the fee
49 shall be delivered a receipt for payment of services
50 provided under the program.

S-3470

-1-

S-3470

Page 2

1 Sec. . NEW SECTION. 266.54 LIVESTOCK WASTE

2 IMPACT ANALYSIS

3 1. The administrator shall direct specialists to
4 conduct livestock waste impact analyses. An analysis
5 shall consist of an on-site evaluation of the
6 livestock waste management system of the producer, and
7 a written report based on the evaluation which shall
8 include any recommendations relating to improving
9 waste management practices and procedures.

10 2. The administrator shall direct a specialist to
11 conduct a livestock waste impact analysis, upon
12 request by one of the following:

13 a. A livestock producer who is party to a
14 controversy or case under chapter 455B or a party to a
15 dispute under chapter 654B which involves an action
16 which is alleged to be a nuisance interfering with the
17 enjoyment of another person.

18 b. The department of natural resources or the
19 attorney general who is a party to a controversy or
20 case under chapter 455B, if another party to the
21 controversy or case is a livestock producer.

22 c. The farm mediation service mediating a dispute
23 under chapter 654B which involves an action alleged to
24 be a nuisance interfering with the enjoyment of a
25 person who is a party to the dispute.

26 d. A party to a dispute under chapter 654B which
27 involves an action alleged to be a nuisance
28 interfering with the enjoyment of the party.

29 3. a. The administrator may require that requests
30 include information required by the administrator, be
31 submitted on forms prescribed by the administrator,
32 and be submitted according to procedures required by
33 the administrator. The request may include a
34 statement explaining special circumstances which
35 require expedited action. A person submitting a
36 request shall promptly notify the administrator if the
37 request has been withdrawn.

38 b. The administrator shall promptly answer the
39 person submitting the request that the request has
40 been accepted or refused. If the request is accepted,
41 the answer shall state whether an analysis is expected
42 to be delayed, and the estimated date that the delayed
43 analysis is expected to be delivered. The analysis
44 shall be delivered to the person submitting the
45 request within twenty days from receipt of the request
46 by the administrator, unless the analysis is delayed.
47 A copy of the analysis shall be provided to any other
48 party to a controversy or case under chapter 455B, or
49 to another party to a dispute and the farm mediation
50 service mediating a dispute under chapter 654B.

S-3470

-2-

Dist.
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S-3470

Page 3

1 c. The administrator shall determine the priority
 2 to be assigned a request and shall develop a system of
 3 priorities for completing analyses, including the
 4 performance of evaluations and the preparation of
 5 reports. The administrator shall consult with the
 6 department of natural resources, the attorney general,
 7 and the farm mediation service in developing the
 8 system. The administrator may refuse to accept a
 9 request based upon the system of priorities.

10 4. An animal agriculture specialist shall not
 11 enter onto the property where a livestock production
 12 operation is located without the consent of the owner.
 13 If the owner does not consent to the evaluation, the
 14 analysis shall include the owner's denial of the
 15 evaluation as noted by the specialist in the report.

16 5. Verbal or written information relating to the
 17 evaluation and information contained in the analysis
 18 is confidential communication, including information
 19 transmitted between the administrator and a specialist
 20 or staff of the administrator, information transmitted
 21 by a specialist discussing a controversy or case with
 22 parties under chapter 455B, or a dispute in a
 23 mediation proceeding under chapter 654B. The
 24 administrator, staff, or a specialist shall not be
 25 examined in any judicial or administrative or judicial
 26 proceeding regarding confidential communications, and
 27 is not subject to administrative or judicial process
 28 requiring the disclosure of confidential
 29 communications. An analysis shall not be admitted
 30 into evidence in an administrative or judicial
 31 proceeding.

32 6. This section does not require the department of
 33 natural resources or the attorney general to delay the
 34 prosecution of a controversy or case under chapter
 35 455B, or the referral of a case by the department to
 36 the attorney general under section 455B.109. This
 37 section also does not require a delay in mediation
 38 proceedings as provided in chapter 654B. The
 39 department or attorney general may consider an
 40 available analysis in making determinations regarding
 41 the controversy or case, including but not limited to
 42 the assessment or collection of a penalty, the
 43 prosecution of a case, or a settlement with the
 44 opposing party. The department or attorney general is
 45 not required to change the findings of its
 46 investigation or a penalty sought or assessed under
 47 chapter 455B because of the analysis. The parties to
 48 a dispute in mediation may also consider an available
 49 analysis to the extent agreed to by the parties.

50 7. Iowa state university of science and technology

Dis.
A.

S-3470

S-3470

Page 4

A

1 is required to carry out this section only to the
2 extent moneys are appropriated or contributed for the
3 purposes of carrying out this section."

4 2. Page 1, line 22, by striking the words "or
5 another animal".

6 3. Page 1, line 22, by striking the word
7 "chapters" and inserting the following: "chapter".

8 4. Page 1, by striking line 23, and inserting the
9 following: "717."

10 5. Page 1, line 30, by striking the words "or
11 another animal".

12 6. Page 1, line 30, by striking the word
13 "chapters" and inserting the following: "chapter".

14 7. Page 1, by striking line 31, and inserting the
15 following: "717."

16 8. Page 1, by striking line 35, and inserting the
17 following: "by a county or city pursuant to section
18 717.2A,".

19 9. By striking page 5, line 1, through page 8,
20 line 9, and inserting the following:

21 "Sec. ____ . NEW SECTION. 717B.1 ANIMAL DEFINED.

22 As used in this chapter, "animal" means a nonhuman
23 vertebrate which does not include livestock as defined
24 in section 717.1A.

25 Sec. ____ . NEW SECTION. 717B.2 CRUELTY TO
26 ANIMALS.

27 A person who impounds or confines, in any place, an
28 animal and fails to supply the animal during
29 confinement with a sufficient quantity of food, and
30 water, or who fails to provide a dog or cat with
31 adequate shelter, or who tortures, torments, deprives
32 of necessary sustenance, mutilates, beats, or kills an
33 animal by any means which cause unjustified pain,
34 distress, or suffering, whether intentionally or
35 negligently, commits the offense of cruelty to
36 animals.

37 A person who commits the offense of cruelty to
38 animals is guilty of a simple misdemeanor. A person
39 who intentionally commits the offense of cruelty to
40 animals which results in serious injury to or the
41 death of an animal is guilty of a serious misdemeanor.

42 Sec. ____ . NEW SECTION. 717B.5 DISPOSITION OF
43 NEGLECTED AND ABUSED ANIMALS.

44 If a person is found guilty of a violation of this
45 chapter, the disposition of the neglected or abused
46 animal shall be determined by a court."

47 10. By striking page 8, line 18, through page 9,
48 line 7.

49 11. Page 9, by striking line 26, and inserting
50 the following:

Div. B

B

S-3470

A.
B.

S-3470

Page 5

1 "Sec. _____. REPEALS. Sections 169B.49, 717.4,".
2 12. Page 9, by inserting after line 27, the
3 following:

4 "Sec. _____. TRANSFER OF SECTIONS RELATING TO
5 CRUELTY OR ABUSE TO ANIMALS. The Code editor shall
6 transfer sections 717.1, and 717.3, Code 1993, to
7 chapter 717B, as created in this Act, and shall
8 organize the sections of the chapter in such a manner
9 as to enhance their readability."

10 13. Title page, line 4, by inserting after the
11 word "repeal" the following: "and transfer".

12 14. By renumbering as necessary.

By COMMITTEE ON AGRICULTURE
BERL E. PRIEBE, Chairperson

S-3470 FILED APRIL 8, 1993

A. adopted 4/20/93 (P.1250)
B - adopted 4/20/93
Page 4 of S-3470B
Had been struck by
adoption of S-3518

HOUSE FILE 637

S-3541

1 Amend House File 637, as passed by the House, as
2 follows:

A 3 1. Page 2, by striking line 14 and inserting the
4 following:
5 " . "Livestock" means an animal kept in a
6 confined location, from which is commercially produced
7 food, fiber, or hides, and shall include, but not be
8 limited to, an animal belonging to the bovine,".

B 9 2. Page 2, by striking lines 28 through 32 and
10 inserting the following: "~~to-section-48iA-607-or-dog~~
11 ~~or-eat7~~ and ~~fails-to-supply-the-animal-during~~
12 ~~confinement-with-a-sufficient-quantity-of-feed,-and~~
13 ~~water,-or-who-fails~~ does any of the following commits
14 the offense of livestock neglect:".

15 3. Page 3, line 3, by striking the word "Beats"
16 the and inserting the following: "Repeatedly beats".

17 4. Page 3, line 7, by inserting before the word
18 "commits" the following: "intentionally".

19 5. Page 8, line 13, by inserting after the word
20 "not" the following: "intentionally".

21 6. By renumbering as necessary.

By MERLIN E. BARTZ

PATTY JUDGE

BERL E. PRIEBE

DERRYL McLAREN

S-3541 FILED APRIL 20, 1993

DIV. A-WITHDRAWN, DIV. B-ADOPTED

HOUSE FILE 637

S-3518

1 Amend the amendment, S-3470, to House File 637, as
2 passed by the House, as follows:

3 1. Page 4, by striking lines 4 through 18, and
4 inserting the following:

5 " . Page 2, lines 34 and 35, by striking the
6 words "appropriate care according to" and inserting
7 the following: "care consistent with"."

8 2. Page 4, line 24, by inserting after the figure
9 "717.1A" the following: "; does not include game,
10 fur-bearing animals, fish, amphibians, or reptiles,
11 all as defined in section 481A.1; and does not include
12 species of nongame declared to be a nuisance pursuant
13 to section 481A.42".

14 3. Page 4, by inserting after line 46 the
15 following:

16 "Sec. . NEW SECTION. 717B.6 NEGLECTED ANIMALS
17 -- DISABLED ANIMALS KILLED.

18 1. An official designated by a county or city may
19 take charge of an animal when the owner fails to
20 properly take care and provide for it, and may furnish
21 the animal with proper care, either on the person's
22 own premises or on the premises of the owner. The
23 county or city has a lien on the animal for the care,
24 and the reasonable value of the care may be collected
25 by the county or city from the owner.

26 2. A peace officer or officer of a society for the
27 prevention of cruelty to animals, may humanely destroy
28 a disabled animal that is neglected or estray."

29 4. By renumbering as necessary.

By BERL E. PRIEBE
BILL FINK

S-3518 FILED APRIL 19, 1993

ADOPTED

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 637

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 637, a bill for an Act relating to the care of animals including livestock, by prohibiting the neglect of animals, providing for the rescue maintenance, and disposition of neglected animals, providing penalties, and providing for the repeal of sections, respectfully make the following report:

1. That the Senate recedes from its amendment, H-4094.
2. That the House recedes from its amendment, S-3694.
3. That House File 637, as passed by the House, is amended by striking everything after the enacting clause and inserting the following:

"Section 1. Section 162.13, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~Failure~~ The failure of any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer, to adequately house, feed, or water dogs, cats, or vertebrate animals in the person's or facility's possession or custody is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed as provided by rules which shall be adopted by the department pursuant to chapter 17A. The rules shall provide for the destruction of an animal by a humane method, including by euthanasia at-the-discretion of-the-secretary-and-the---~~The failure to meet the requirements of this section is also grounds cause for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or prohibited under chapter 717 or 717B, by a person or-facility licensed or~~

CCH-637.2

Page 2

registered under this chapter is ~~grounds~~ cause for revocation or suspension of the license or registration certificate. Dogs, cats, and other vertebrates upon which euthanasia is permitted by law may be destroyed by ~~persons-or-facilities~~ a person subject to this chapter or chapter 169, ~~and-only~~ by a humane method, including euthanasia, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

Sec. 2. NEW SECTION. 331.308 NEGLECTED ANIMALS.

A county may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

Sec. 3. Section 331.653, subsection 21, Code 1993, is amended by striking the subsection.

Sec. 4. NEW SECTION. 364.22A NEGLECTED ANIMALS.

A city may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

Sec. 5. Section 602.6405, subsection 1, Code 1993, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. Magistrates have jurisdiction to determine the disposition of livestock or another animal, as provided in sections 717.5 and 717B.4, if the magistrate determines the value of the livestock or animal is less than ten thousand dollars. Magistrates have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. Magistrates have jurisdiction over violations of section 123.49, subsection 2, paragraph "h". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary

CCH-637.2

Page 3

commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

Sec. 6. Section 670.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A claim based on an act or omission by a county or city pursuant to section 717.2A or chapter 717B relating to either of the following:

- a. Rescuing neglected livestock or another animal by a law enforcement officer.
- b. Maintaining or disposing of neglected livestock or another animal by a county or city.

Sec. 7. Section 717.1, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

717.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Law enforcement officer" means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.
2. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species or poultry.
3. "Livestock care provider" means a person designated by a local authority to provide care to livestock which is rescued by the local authority pursuant to section 717.2A.
4. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.
5. "Maintenance" means to provide on-site or off-site care to neglected livestock.

CCH-637.2

Page 4

6. "Sustenance" means food, water, or a nutritional formulation customarily used in the production of livestock.

Sec. 8. NEW SECTION. 717.1A LIVESTOCK ABUSE.

A person is guilty of livestock abuse, if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock, by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.

5. A person reasonably acting to protect the person's property from damage caused by estray livestock.

6. A person reasonably acting to protect a person from injury or death caused by estray livestock.

7. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 9. Section 717.2, Code 1993, is amended to read as follows:

717.2 ~~CRUELTY-TO-ANIMALS~~ LIVESTOCK NEGLECT.

1. A person who impounds or confines livestock, in any place, ~~a-domestic-animal-or-fowl, or-an-animal-or-fowl-subject-to-section-481A-60, or-dog-or-cat,~~ and ~~fails-to-supply-the~~

CCH-637.2

Page 5

~~animal during confinement with a sufficient quantity of food, and water, or who fails~~ does any of the following commits the offense of livestock neglect:

a. ~~Fails to provide a dog or cat~~ livestock with adequate shelter, ~~or who tortures, torments, deprives~~ care consistent with customary animal husbandry practices.

b. Deprives livestock of necessary sustenance, mutilates, overdrives, overloads, drives when overloaded, beats,

c. Injures or kills an animal destroys livestock by any means which ~~cause unjustified~~ causes pain, distress, or suffering, ~~whether intentionally or negligently, commits the offense of cruelty to animals~~ in a manner inconsistent with customary animal husbandry practices.

2. A person who commits the offense of ~~cruelty to animals~~ livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of ~~cruelty to animals~~ livestock neglect which results in serious injury to or the death of ~~an animal~~ livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 10. NEW SECTION. 717.2A RESCUE OF NEGLECTED LIVESTOCK.

1. a. A law enforcement officer may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.

b. The officer may enter onto property of a person to

CCH-637.2

Page 6

rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

(a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:

(i) The name and address of the local authority.

(ii) A description of the livestock subject to rescue.

(iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.

(iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected,

CCH-637.2

Page 7

or the person is taking immediate measures required to rehabilitate the livestock.

(c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance of the neglected livestock. The local authority may contract with a livestock care provider

CCH-637.2

Page 8

for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

3. The livestock shall be subject to disposition pursuant to section 717.5.

Sec. 11. Section 717.5, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

717.5 DISPOSITION OF NEGLECTED LIVESTOCK.

1. A court shall order the disposition of livestock neglected as provided in section 717.2 after a hearing upon application or petition to the court by a local authority or a person owning or caring for the livestock. The matter shall be heard within ten days from the filing of a petition by the local authority or the person. The court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the livestock for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security. However, the court shall order the immediate disposition of the livestock if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if livestock has been neglected for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717.2.

3. A court may order a person owning the neglected livestock to pay an amount which shall not be more than the

CCH-637.2

Page 9

expenses incurred in maintaining the neglected livestock rescued pursuant to section 717.2A, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to this section shall be used to reimburse the local authority. If more than one person has a divisible interest in the livestock, the amount required to be paid shall be prorated based on the percentage of interest in the livestock owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the livestock, which are received from the sale of the livestock ordered by the court. Moneys owed to the local authority from the sale of neglected livestock shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the livestock. If an owner of the livestock is a landowner, the local authority may submit an amount to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the livestock. If the livestock owner owns a percentage of the livestock, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the livestock. That amount shall be prorated among the landowners based on the percentage of interest in the livestock attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected livestock ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

Sec. 12. NEW SECTION. 717B.1 ANIMAL DEFINED.

As used in this chapter:

CCH-637.2

Page 10

1. "Animal" means a nonhuman vertebrate. However, "animal" does not include any of the following:
 - a. Livestock, as defined in section 717.1.
 - b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.
 - c. Any nongame species declared to be a nuisance pursuant to section 481A.42.
2. "Animal care provider" means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.
3. "Law enforcement officer" means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and dedication of crime and the enforcement of the criminal laws of this state.
4. "Maintenance" means to provide on-site or off-site care to neglected animals.
5. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.

Sec. 13. NEW SECTION. 717B.2 ANIMAL ABUSE.

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.
2. A person acting to carry out an order issued by a court.
3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

CCH-637.2

Page 11

4. A person acting in order to carry out another provision of law which allows the conduct.

5. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

6. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

7. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

8. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

9. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

10. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

11. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 14. NEW SECTION. 717B.3 ANIMAL NEGLECT.

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted

CCH-637.2

Page 12

practices and disciplines associated with the institution or research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal abuse which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Sec. 15. NEW SECTION. 717B.4 DISPOSITION OF NEGLECTED ANIMALS.

1. A court shall order the disposition of an animal neglected as provided in section 717B.3 after a hearing upon application or petition to the court by a local authority or the person owning or caring for the animal. The matter shall be heard within ten days from the filing of the petition. The court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if the animal has been neglected for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717B.3.

3. A court may order a person owning the neglected animal to pay an amount which shall not be more than the expenses incurred in maintaining the neglected animal rescued pursuant to section 717B.5, and reasonable attorney fees and expenses

CCH-637.2

Page 13

related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to this chapter shall be used to reimburse the local authority. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the animal, which are received from the sale of the animal ordered by the court. Moneys owed to the local authority from the sale of a neglected animal shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the animal. If an owner of the animal is a landowner, the local authority may submit an amount to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the animal. If the animal owner owns a percentage of the animal, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the animal. That amount shall be prorated among the landowners based on the percentage of interest in the animal attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected animals ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

Sec. 16. NEW SECTION. 717B.5 RESCUE OF NEGLECTED ANIMALS.

1. A law enforcement officer, after consulting with a veterinarian licensed pursuant to chapter 169, may rescue an animal neglected as provided in section 717B.3 on public or

CCH-637.2

Page 14

private property, as provided in this subsection. The officer may enter onto property of a person to rescue a neglected animal, if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the neglected animal. The local authority may contract with an animal care provider for the maintenance of the neglected animal. The local authority shall post a notice in a conspicuous place at the location where the animal was rescued. The notice shall state that the animal has been rescued by the local authority pursuant to this section. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the sale of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

3. The animal shall be subject to disposition as required by a court, pursuant to section 717B.4.

Sec. 17. NEW SECTION. 717B.5A DISABLED ANIMALS DESTROYED.

A person may humanely destroy a wild animal as defined in section 481A.1, if the wild animal is permanently distressed by injury or disease to a degree that results in severe and prolonged suffering. The destroyed animal shall be subject to disposition as provided by rules adopted by the natural resource commission pursuant to chapter 17A.

Sec. 18. NEW SECTION. 717B.6 EXHIBITIONS AND FIGHTS.

A person shall not arrange, promote, or stage an exhibition at which an animal is tormented, or in which there is a fight between animals or between a person and an animal. A person shall not maintain an establishment where such an exhibition

CCH-637.2

Page 15

is conducted. A person violating this section is guilty of a serious misdemeanor.

Sec. 19. NEW SECTION. 717B.7 ABANDONMENT OF CATS AND DOGS -- PENALTIES.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

Sec. 20. NEW SECTION. 717B.8 INJURY OR INTERFERENCE WITH A POLICE SERVICE DOG.

1. A person who knowingly, and willfully or maliciously torments, strikes, administers a nonpoisonous desensitizing substance to, or otherwise interferes with a police service dog, without inflicting serious injury on the dog, commits a simple misdemeanor.

2. A person who knowingly, and willfully or maliciously tortures, injures so as to disfigure or disable, kills, or administers poison to a police service dog, commits a serious misdemeanor.

3. As used in this section, "police service dog" means a dog used by a peace officer in the performance of the officer's duties, whether or not the dog is on duty.

4. This section does not apply to a peace officer or veterinarian who terminates the life of such a dog for the purpose of relieving the dog of undue pain or suffering, or to a person who justifiably acts in defense of self or another.

Sec. 21. RULES REQUIRED -- DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. The department of agriculture and land stewardship shall adopt rules as provided in section 162.13 as amended by this Act not later than August 30, 1994. The department shall not use the procedures set out in section 17A.4, subsection 2, or section 17A.5, subsection 2, paragraph "b" to meet this deadline.

CCH-637.2

Page 16

Sec. 22. EFFECTIVE DATE. Sections 1, 21, and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 23. REPEALS. Sections 169B.49, 717.3, 717.4, and 717.6, Code 1993, are repealed."

2. Title page, line 4, by inserting after the word "sections" the following: "and effective dates".

ON THE PART OF THE HOUSE:

ON THE PART OF THE SENATE:

JOHN M. GREIG, Chairperson
CLIFFORD O. BRANSTAD
BARRY BRAUNS
DENNIS MAY
DOLORES MERTZ

BERL E. PRIEBE, Chairperson
BRAD BANKS
JACK W. HESTER
EMIL J. HUSAK
JIM RIORDAN

CCH-637.2 FILED APRIL 14, 1994

*Adopted
4-14-94*

*Adopted
4-15-94
(P. 1267)*

*Gregg Ch.
May
Mertz
Brauns
Braunsted*

HSB 46

Agriculture

HOUSE FILE 383 + 637
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON EDDIE)

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

A BILL FOR

1 An Act providing for the rescue and maintenance of neglected
2 animals, providing penalties, and providing for the repeal of
3 a provision.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. _____ H.F. _____

1 Section 1. Section 331.307, subsection 1, Code 1993, is
2 amended to read as follows:

3 1. A county infraction is a civil offense punishable by a
4 civil penalty of not more than one hundred dollars for each
5 violation or if the infraction is a repeat offense a civil
6 penalty not to exceed two hundred dollars for each repeat
7 offense. However, notwithstanding section 331.302, a county
8 infraction arising from the neglect of an animal as provided
9 in section 717.7 may be punishable by a civil penalty of not
10 more than one thousand dollars.

11 Sec. 2. Section 331.307, subsection 6, Code 1993, is
12 amended to read as follows:

13 6. Notwithstanding section 602.8106, subsection 3,
14 penalties or forfeitures collected by the court for county
15 infractions shall be remitted to the county in the same manner
16 as fines and forfeitures are remitted to cities for criminal
17 violations under section 602.8106. The entire amount of a
18 penalty collected pursuant to a violation of section 717.7
19 shall be deposited with the county treasurer for use by the
20 county in administering and enforcing section 717.7. If the
21 person named in the citation is served as provided in this
22 section and fails without good cause to appear in response to
23 the civil citation, judgment shall be entered against the
24 person cited.

25 Sec. 3. Section 331.653, subsection 21, Code 1993, is
26 amended to read as follows:

27 21. Destroy a neglected or stray disabled animal as
28 ~~provided in section 169B-49.~~

29 Sec. 4. Section 364.22, subsection 1, unnumbered paragraph
30 1, Code 1993, is amended to read as follows:

31 A municipal infraction is a civil offense punishable by a
32 civil penalty of not more than one hundred dollars for each
33 violation or if the infraction is a repeat offense, a civil
34 penalty not to exceed two hundred dollars for each repeat
35 offense. However, notwithstanding section 364.3, a municipal

1 infraction arising from the neglect of an animal as provided
2 in section 717.7 may be punishable by a civil penalty of not
3 more than one thousand dollars. However, notwithstanding
4 Notwithstanding section 364.3, a municipal infraction arising
5 from noncompliance with a pretreatment standard or
6 requirement, referred to in 40 C.F.R. § 403.8, by an
7 industrial user may be punishable by a civil penalty of not
8 more than one thousand dollars for each day a violation exists
9 or continues.

10 Sec. 5. Section 364.22, subsection 6, Code 1993, is
11 amended to read as follows:

12 6. All penalties or forfeitures collected by the court for
13 municipal infractions shall be remitted to the city in the
14 same manner as fines and forfeitures are remitted for criminal
15 violations under section 602.8106. The entire amount of a
16 penalty collected pursuant to a violation of section 717.7
17 shall be deposited with the city treasurer for use by the city
18 in administering and enforcing section 717.7. If the person
19 named in the citation is served as provided in this section
20 and fails without good cause to appear in response to the
21 civil citation, judgment shall be entered against the person
22 cited.

23 Sec. 6. Section 670.4, Code 1993, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 13. A claim based on an act or omission
26 by a county or city pursuant to section 717.7 relating to
27 either of the following:

28 a. The providing of on-site care to or the rescue of a
29 neglected animal by a law enforcement officer, unless the
30 rescue results in injury or damage.

31 b. The maintenance or disposition of a neglected animal by
32 the county or city.

33 Sec. 7. NEW SECTION. 717.7 RESCUE AND MAINTENANCE OF
34 NEGLECTED ANIMALS.

35 1. As used in this section, unless the context otherwise

1 requires:

2 a. "Animal care provider" means a person designated by a
3 county or city to provide care to an animal which is removed
4 by the county or city pursuant to this section.

5 b. "Law enforcement officer" means a regularly employed
6 member of a police force of a city or county, including a
7 sheriff, who is responsible for the prevention and detection
8 of crime and the enforcement of the criminal laws of this
9 state.

10 c. "Local authority" means a city as defined in section
11 362.2 or a county as provided in chapter 331.

12 d. "Maintenance" means to provide care to a neglected
13 animal, to dispose of the animal, or to destroy the animal.

14 e. "Neglected animal" means an animal subjected to cruelty
15 in violation of section 717.2.

16 2. A law enforcement officer may enter onto the property
17 of a person to rescue a neglected animal, if the officer
18 obtains a search warrant issued by a court, or sees the
19 neglected animal in open view in an area where there exists no
20 reasonable expectation of privacy.

21 3. A local authority may contact an animal care provider
22 for the maintenance of the neglected animal. The local
23 authority shall pay the animal care provider for the animal's
24 maintenance regardless of proceeds received from the sale of
25 the animal. The local authority may assess the owner of the
26 neglected animal the costs of maintaining the animal,
27 including payments made to the animal care provider.

28 4. If the owner of the animal is a titleholder of land who
29 fails to pay charges for maintenance, the cost of maintenance
30 subtracted by the amount collected in charges from the sale of
31 the animal shall be assessed against the land and collected
32 from the titleholder. The local authority shall submit the
33 amount to the clerk of the county board of supervisors who
34 shall report the amount to the county auditor and county
35 treasurer. The amount shall be placed upon the tax books, and

1 collected together with interest and penalty after due, in the
2 same manner as other unpaid property taxes. The county shall
3 reimburse a city within thirty days from the collection of the
4 property taxes.

5 5. A neglected animal shall not be returned to the owner.
6 The animal shall be subject to disposition as required by a
7 court, including by sale, adoption, or destruction. Moneys
8 from the sale of a neglected animal shall be paid first to the
9 local authority before satisfying indebtedness secured by any
10 security interest in or lien on the animal. A neglected
11 animal shall be destroyed only by euthanasia as defined in
12 section 162.2.

13 6. A proceeding required to obtain an order pursuant to
14 this section shall be expedited. An order shall not be issued
15 by a district court later than twenty-four hours from an
16 application or petition by the local authority.

17 7. The owner of a neglected animal rescued by a law
18 enforcement officer is subject to prosecution for a county
19 infraction as provided in section 331.307 or for a municipal
20 infraction as provided in section 364.22. The amount of the
21 penalty shall be not more than one thousand dollars. Each
22 neglected animal rescued by a law enforcement officer
23 constitutes a separate violation. If the action is brought by
24 a city, the moneys shall be deposited with the city treasurer
25 for use by the city in administering and enforcing this
26 section. If the action is brought by a county, the moneys
27 shall be deposited with the county treasurer for use by the
28 county in administering and enforcing this section.

29 Sec. 8. Section 169B.49, Code 1993, is repealed.

30

EXPLANATION

31 This bill repeals a provision which allows any person to
32 care for or remove a neglected animal belonging to another
33 person.

34 This bill provides that a county or city law enforcement
35 officer may enter onto the property of a person to rescue a

1 neglected animal, by either providing care to the animal or
2 removing the animal to the custody of the city or county. A
3 local authority may contact an animal care provider for the
4 maintenance of the neglected animal. The local authority may
5 assess the owner of a neglected animal the reasonable cost of
6 maintenance. The actions by the officer in caring for or
7 rescuing the animal are exempt from tort claims. The actions
8 of the county or city in maintaining or disposing of the
9 animal are also exempt from such claims.

10 If the owner of the animal is a titleholder of land, the
11 cost of maintenance subtracted by the amount collected from
12 the sale of the animal is assessed against the land and
13 collected from the titleholder. A neglected animal shall not
14 be returned to the owner. The animal shall be subject to
15 disposition as required by a court, including by sale,
16 adoption, or destruction. Moneys from the sale of a neglected
17 animal must be paid to the local authority before satisfying
18 indebtedness secured by any security interest in or lien on
19 the animal.

20 The owner of a neglected animal rescued by a law
21 enforcement officer may be subject to a civil penalty of up to
22 \$1,000 as a county or municipal infraction. Each neglected
23 animal rescued by a local officer shall be considered a
24 separate violation. Moneys collected shall be deposited with
25 the county or city treasurer for use by the county or city in
26 administering and enforcing provisions of the bill.

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HOUSE FILE 637

AN ACT

RELATING TO THE CARE OF ANIMALS INCLUDING LIVESTOCK, BY PROHIBITING THE NEGLECT OF ANIMALS, PROVIDING FOR THE RESCUE, MAINTENANCE, AND DISPOSITION OF NEGLECTED ANIMALS, PROVIDING PENALTIES, AND PROVIDING FOR THE REPEAL OF SECTIONS AND EFFECTIVE DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 162.13, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~Failure~~ The failure of any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer, to adequately house, feed, or water dogs, cats, or vertebrate animals in the person's or facility's possession or custody is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed as provided by rules which shall be adopted by the department pursuant to chapter 17A. The rules shall provide for the destruction of an animal by a humane method, including by euthanasia at the discretion of the secretary and the. ~~The failure to meet the requirements of this section is also grounds cause for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or prohibited under chapter 717 or 717B, by a person or facility licensed or registered under this chapter is grounds cause for revocation or suspension of the license or registration certificate. Dogs, cats, and other vertebrates upon which euthanasia is permitted by law may be destroyed by persons-or-facilities a person subject to this chapter or chapter 169, and only by a humane method, including euthanasia, as provided by rules~~

which shall be adopted by the department pursuant to chapter 17A.

Sec. 2. NEW SECTION. 331.308 NEGLECTED ANIMALS.

A county may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

Sec. 3. Section 331.653, subsection 21, Code 1993, is amended by striking the subsection.

Sec. 4. NEW SECTION. 364.22A NEGLECTED ANIMALS.

A city may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

Sec. 5. Section 602.6405, subsection 1, Code 1993, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. Magistrates have jurisdiction to determine the disposition of livestock or another animal, as provided in sections 717.5 and 717B.4, if the magistrate determines the value of the livestock or animal is less than ten thousand dollars. Magistrates have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. Magistrates have jurisdiction over violations of section 123.49, subsection 2, paragraph "h". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

Sec. 6. Section 670.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A claim based on an act or omission by a county or city pursuant to section 717.2A or chapter 717B relating to either of the following:

- a. Rescuing neglected livestock or another animal by a law enforcement officer.
- b. Maintaining or disposing of neglected livestock or another animal by a county or city.

Sec. 7. Section 717.1, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

717.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

- 1. "Law enforcement officer" means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.
- 2. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species or poultry.
- 3. "Livestock care provider" means a person designated by a local authority to provide care to livestock which is rescued by the local authority pursuant to section 717.2A.
- 4. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.
- 5. "Maintenance" means to provide on-site or off-site care to neglected livestock.
- 6. "Sustenance" means food, water, or a nutritional formulation customarily used in the production of livestock.

Sec. 8. NEW SECTION. 717.1A LIVESTOCK ABUSE.

A person is guilty of livestock abuse, if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs

or poisons to the livestock, or disabling the livestock, by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

- 1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.
- 2. A person acting to carry out an order issued by a court.
- 3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
- 4. A person acting in order to carry out another provision of law which allows the conduct.
- 5. A person reasonably acting to protect the person's property from damage caused by estray livestock.
- 6. A person reasonably acting to protect a person from injury or death caused by estray livestock.
- 7. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 9. Section 717.2, Code 1993, is amended to read as follows:

717.2 ~~CRUELTY TO ANIMALS~~ LIVESTOCK NEGLECT.

~~1. A person who impounds or confines livestock, in any place, a domestic animal or fowl, or an animal or fowl subject to section 481A-607 or dog or cat, and fails to supply the animal during confinement with a sufficient quantity of food and water, or who fails~~ does any of the following commits the offense of livestock neglect:

- a. Fails to provide a dog or cat livestock with adequate shelter, or who tortures, torments, deprives care consistent with customary animal husbandry practices.

~~b. Deprives livestock of necessary sustenance; mutilates; overdrives; overloads; drives when overloaded; beats;~~

~~c. Injures or kills an animal; destroys livestock by any means which cause unjustified causes pain; distress; or suffering; whether intentionally or negligently; commits the offense of cruelty to animals in a manner inconsistent with customary animal husbandry practices.~~

2. A person who commits the offense of cruelty to animals livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of cruelty to animals livestock neglect which results in serious injury to or the death of an animal livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 10. NEW SECTION. 717.2A RESCUE OF NEGLECTED LIVESTOCK.

1. a. A law enforcement officer may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.

b. The officer may enter onto property of a person to rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

(a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:

(i) The name and address of the local authority.

(ii) A description of the livestock subject to rescue.

(iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.

(iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected, or the person is taking immediate measures required to rehabilitate the livestock.

(c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is

available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance of the neglected livestock. The local authority may contract with a livestock care provider for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

3. The livestock shall be subject to disposition pursuant to section 717.5.

Sec. 11. Section 717.5, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

717.5 DISPOSITION OF NEGLECTED LIVESTOCK.

1. A court shall order the disposition of livestock neglected as provided in section 717.2 after a hearing upon application or petition to the court by a local authority or a person owning or caring for the livestock. The matter shall be heard within ten days from the filing of a petition by the local authority or the person. The court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the livestock for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security. However, the court shall order the immediate disposition of the livestock if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if livestock has been neglected for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717.2.

3. A court may order a person owning the neglected livestock to pay an amount which shall not be more than the expenses incurred in maintaining the neglected livestock rescued pursuant to section 717.2A, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to this section shall be used to reimburse the local

authority. If more than one person has a divisible interest in the livestock, the amount required to be paid shall be prorated based on the percentage of interest in the livestock owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the livestock, which are received from the sale of the livestock ordered by the court. Moneys owed to the local authority from the sale of neglected livestock shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the livestock. If an owner of the livestock is a landowner, the local authority may submit an amount to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the livestock. If the livestock owner owns a percentage of the livestock, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the livestock. That amount shall be prorated among the landowners based on the percentage of interest in the livestock attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected livestock ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

Sec. 12. NEW SECTION. 717B.1 ANIMAL DEFINED.

As used in this chapter:

1. "Animal" means a nonhuman vertebrate. However, "animal" does not include any of the following:
 - a. Livestock, as defined in section 717.1.
 - b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns,

confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.

c. Any nongame species declared to be a nuisance pursuant to section 481A.42.

2. "Animal care provider" means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.

3. "Law enforcement officer" means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and dedication of crime and the enforcement of the criminal laws of this state.

4. "Maintenance" means to provide on-site or off-site care to neglected animals.

5. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.

Sec. 13. NEW SECTION. 717B.2 ANIMAL ABUSE.

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.

5. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

6. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

7. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

8. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

9. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

10. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

11. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 14. NEW SECTION. 717B.3 ANIMAL NEGLECT.

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor.

A person who intentionally commits the offense of animal abuse which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Sec. 15. NEW SECTION. 717B.4 DISPOSITION OF NEGLECTED ANIMALS.

1. A court shall order the disposition of an animal neglected as provided in section 717B.3 after a hearing upon application or petition to the court by a local authority or the person owning or caring for the animal. The matter shall be heard within ten days from the filing of the petition. The court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if the animal has been neglected for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717B.3.

3. A court may order a person owning the neglected animal to pay an amount which shall not be more than the expenses incurred in maintaining the neglected animal rescued pursuant to section 717B.5, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to this chapter shall be used to reimburse the local authority. If more than one person has a divisible interest in the animal,

the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the animal, which are received from the sale of the animal ordered by the court. Moneys owed to the local authority from the sale of a neglected animal shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the animal. If an owner of the animal is a landowner, the local authority may submit an amount to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the animal. If the animal owner owns a percentage of the animal, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the animal. That amount shall be prorated among the landowners based on the percentage of interest in the animal attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected animals ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

Sec. 16. NEW SECTION. 717B.5 RESCUE OF NEGLECTED ANIMALS.

1. A law enforcement officer, after consulting with a veterinarian licensed pursuant to chapter 169, may rescue an animal neglected as provided in section 717B.3 on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue a neglected animal, if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with

the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the neglected animal. The local authority may contract with an animal care provider for the maintenance of the neglected animal. The local authority shall post a notice in a conspicuous place at the location where the animal was rescued. The notice shall state that the animal has been rescued by the local authority pursuant to this section. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the sale of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

3. The animal shall be subject to disposition as required by a court, pursuant to section 717B.4.

Sec. 17. NEW SECTION. 717B.5A DISABLED ANIMALS DESTROYED.

A person may humanely destroy a wild animal as defined in section 481A.1, if the wild animal is permanently distressed by injury or disease to a degree that results in severe and prolonged suffering. The destroyed animal shall be subject to disposition as provided by rules adopted by the natural resource commission pursuant to chapter 17A.

Sec. 18. NEW SECTION. 717B.6 EXHIBITIONS AND FIGHTS.

A person shall not arrange, promote, or stage an exhibition at which an animal is tormented, or in which there is a fight between animals or between a person and an animal. A person shall not maintain an establishment where such an exhibition is conducted. A person violating this section is guilty of a serious misdemeanor.

Sec. 19. NEW SECTION. 717B.7 ABANDONMENT OF CATS AND DOGS -- PENALTIES.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

Sec. 20. NEW SECTION. 717B.8 INJURY OR INTERFERENCE WITH A POLICE SERVICE DOG.

1. A person who knowingly, and willfully or maliciously torments, strikes, administers a nonpoisonous desensitizing substance to, or otherwise interferes with a police service dog, without inflicting serious injury on the dog, commits a simple misdemeanor.

2. A person who knowingly, and willfully or maliciously tortures, injures so as to disfigure or disable, kills, or administers poison to a police service dog, commits a serious misdemeanor.

3. As used in this section, "police service dog" means a dog used by a peace officer in the performance of the officer's duties, whether or not the dog is on duty.

4. This section does not apply to a peace officer or veterinarian who terminates the life of such a dog for the purpose of relieving the dog of undue pain or suffering, or to a person who justifiably acts in defense of self or another.

Sec. 21. RULES REQUIRED -- DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. The department of agriculture and land stewardship shall adopt rules as provided in section 162.13 as amended by this Act not later than August 30, 1994. The department shall not use the procedures set out in section 17A.4, subsection 2, or section 17A.5, subsection 2, paragraph "b" to meet this deadline.

Sec. 22. EFFECTIVE DATE. Sections 1, 21, and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 23. REPEALS. Sections 169B.49, 717.3, 717.4, and 717.6, Code 1993, are repealed.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 637, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 25, 1994

TERRY E. BRANSTAD
Governor