

Greiner  
Behn  
Shearer

SSB-1228

Agriculture

Succeeded By

SENATE FILE SE/HF 470  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON McLAREN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the regulation of infectious and contagious  
2 diseases in animals, and providing for penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 163.1, unnumbered paragraph 1, Code  
2 2001, is amended to read as follows:

3 ~~In-the-enforcement-of~~ The department shall administer and  
4 enforce the provisions of this chapter, and rules adopted by  
5 the department pursuant to this chapter. In administering the  
6 provisions of this chapter, the department of-agriculture-and  
7 land-stewardship shall have power to do all of the following:

8 Sec. 2. Section 163.6, subsection 4, Code 2001, is amended  
9 by striking the subsection.

10 Sec. 3. Section 163.18, Code 2001, is amended to read as  
11 follows:

12 163.18 FALSE REPRESENTATION.

13 Any A person who shall not knowingly makes-any make a false  
14 representation as-to-the-purpose-for-which-a about the  
15 shipment of animals an animal that is being or will be made,  
16 with the intent to avoid or prevent an the animal's inspection  
17 of-such-animals-for-the-purpose-of-determining that is  
18 conducted in order to determine whether the animals-are animal  
19 is free from disease,-shall-be-guilty-of-a-simple-misdemeanor.

20 Sec. 4. Section 163.23, Code 2001, is amended to read as  
21 follows:

22 163.23 FALSE CERTIFICATES OF HEALTH ---PENALTY.

23 Any A veterinarian issuing shall not issue a certificate of  
24 health for an animal knowing that the animal described therein  
25 in the certificate of health was not the same animal from  
26 which the tests were made as a basis for issuing the  
27 certificate or-who. A veterinarian shall not otherwise  
28 falsifies-any-such falsify a certificate shall-be-guilty-of-a  
29 fraudulent-practice of health.

30 Sec. 5. Section 163.24, Code 2001, is amended to read as  
31 follows:

32 163.24 USING FALSE CERTIFICATE.

33 Any A person,-firm,-or-corporation-importing,-exporting,-or  
34 transporting shall not conduct a transaction to import,  
35 export, or transport an animal within this state or selling

1 sell or offering offer for sale any an animal for-which, if  
2 the person uses a certificate of health has-been-issued-and  
3 who-uses-such-certificate in connection with any-of-said  
4 transactions the transaction knowing that the animal described  
5 in said the certificate of health was not the animal from  
6 which the tests were made as a basis for issuing the  
7 certificate or-who-knowingly-uses-any of health. A person  
8 shall not otherwise use an altered or otherwise false  
9 certificate in connection with any-of-said-transactions-shall  
10 be-guilty-of-a-fraudulent-practice such transaction.

11 Sec. 6. Section 163.25, Code 2001, is amended to read as  
12 follows:

13 163.25 ALTERING CERTIFICATE.

14 Any A person, firm, or corporation removing or altering  
15 shall not remove or alter a tag or mark of identification  
16 appearing on any an animal, tested or being tested for  
17 disease, any if the tag or mark of identification is  
18 authorized by the department or inserted by any qualified  
19 veterinarian or-altering-any. A person shall not alter a  
20 certificate of vaccination issued by one a person authorized  
21 to vaccinate animals-shall-be-guilty-of-a-fraudulent-practice  
22 the animal.

23 Sec. 7. NEW SECTION. 163.51 CIVIL PENALTIES.

24 1. The department shall establish, by rule, civil  
25 penalties which may be administratively or judicially  
26 assessed. The attorney general shall cooperate with the  
27 department in the assessment and collection of civil  
28 penalties.

29 2. a. Except as provided in paragraph "b", a person  
30 violating a provision of this chapter, or a rule adopted  
31 pursuant to this chapter, shall be subject to a civil penalty  
32 of at least one hundred dollars but not more than one thousand  
33 dollars. In the case of a continuing violation, each day of  
34 the continuing violation is a separate violation. However, a  
35 person shall not be subject to a civil penalty totaling more

1 than twenty-five thousand dollars.

b. Notwithstanding the provisions of paragraph "a", a person who falsifies a health certificate, veterinarian inspection certificate, or certificate of inspection shall be subject to a civil penalty of not more than five thousand dollars for each reference to an animal falsified on the certificate. However, a person who falsifies a certificate of inspection issued pursuant to chapter 166D shall be subject to a civil penalty as provided in this section or section 166D.16, but not both. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of animals falsified on the certificate.

14     3. Moneys collected from civil penalties shall be  
15 deposited into the general fund of the state.

16      **Sec. 8. NEW SECTION. 163.51 INJUNCTIVE RELIEF.**

17 The department or the attorney general acting on behalf of  
18 the department may apply to the district court for injunctive  
19 relief in order to restrain a person from acting in violation  
20 of this chapter. In order to obtain injunctive relief, the  
21 department shall not be required to post a bond or prove the  
22 absence of an adequate remedy at law, unless the court for  
23 good cause otherwise orders. The court may order any form of  
24 prohibitory or mandatory relief that is appropriate under  
25 principles of equity, including but not limited to issuing a  
26 temporary or permanent restraining order.

27       Sec. 9.   DIRECTIONS TO CODE EDITOR.   The Code editor shall  
28 organize chapter 163 into subchapters based on divisions of  
29 the chapter and this Act, and replace the term "division" with  
30 "subchapter" wherever it occurs in the chapter.

31      Sec. 10. Sections 163.21, 163.29, and 163.31, Code 2001,  
32 are repealed.

33	EXPLANATION
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34 Code chapter 163 provides for the general regulation of  
35 infectious and contagious diseases in animals (livestock).

1 Other chapters of the Code provide specific and occasionally  
2 overlapping regulations affecting individual species of  
3 livestock. The chapter regulates a number of practices  
4 including the shipment or movement of livestock; the sale of  
5 infected livestock; the issuance of certificates related to  
6 movement, such as a certificate of health or certificate of  
7 inspection; feeding garbage to livestock, the identification  
8 of swine consigned to slaughter; and licenses required to  
9 breed bulls.

10 A number of penalties apply to violations of these  
11 provisions, including both criminal and civil penalties. The  
12 criminal penalty is generally a simple misdemeanor. A simple  
13 misdemeanor is punishable by confinement for no more than 30  
14 days or a fine of at least \$50 but not more than \$500 or by  
15 both. Several provisions provide that a violation is a  
16 fraudulent practice under Code chapter 714. The penalty  
17 ranges from a simple misdemeanor to a class "C" felony, based  
18 on the value of the property involved in the commission of the  
19 offense. A class "C" felony is punishable by confinement for  
20 no more than 10 years and a fine of at least \$1,000 but not  
21 more than \$10,000. The bill provides that certain violations  
22 are subject to a civil penalty. For example, under Code  
23 section 163.31, a person who falsifies an official health  
24 certificate or veterinarian inspection certificate for the  
25 movement of swine is subject to a civil penalty of not more  
26 than \$5,000 for each reference to a swine falsified on the  
27 certificate, but not more than \$25,000.

28 This bill eliminates those penalties and authorizes the  
29 department to establish, by rule, civil penalties. The bill  
30 provides that a person violating a provision of Code chapter  
31 163, or a rule adopted pursuant to the Code chapter, is  
32 subject to a civil penalty of at least \$100 but not more than  
33 \$1,000. In the case of a continuing violation, each day of  
34 the continuing violation is a separate violation. The bill  
35 provides that a person shall not be subject to a civil penalty

1 totaling more than \$25,000. The bill also carves out one area  
2 where higher penalties are applicable. The bill provides that  
3 a person who falsifies a health certificate, veterinarian  
4 inspection certificate, or certificate of inspection is  
5 subject to a civil penalty of not more than \$5,000 for each  
6 reference to an animal falsified on the certificate, with a  
7 maximum civil penalty of \$25,000.

8 The bill authorizes the department or the attorney general  
9 acting on behalf of the department to apply to the district  
10 court for injunctive relief in order to restrain a person from  
11 acting in violation of this Code chapter.

12 The bill repeals current provisions that refer to penalties  
13 and directs the Code editor to reorganize the chapter into  
14 subchapters as is appropriate.

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H. 3/27/01 Agriculture  
H. 4/3/01 Do Pass

H. 4/12/01

SENATE BUSINESS CALENDAR

FILED MAR 15 2001

470

SENATE FILE

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 1228)

Passed Senate, (P. 823) Date 3-26-01  
Vote: Ayes 46 Nays 0  
Approved 5/16/01

Passed House, (P. 1405) Date 4/23/01  
Vote: Ayes 97 Nays 0

repassed 5/2/01  
vote 75-0

A BILL FOR

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SF 470

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33 dollars. In the case of a continuing violation, each day of  
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b. Notwithstanding the provisions of paragraph "a", a person who falsifies a health certificate, veterinarian inspection certificate, or certificate of inspection shall be subject to a civil penalty of not more than five thousand dollars for each reference to an animal falsified on the certificate. However, a person who falsifies a certificate of inspection issued pursuant to chapter 166D shall be subject to a civil penalty as provided in this section or section 166D.16, but not both. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of animals falsified on the certificate.

16      Sec. 8.    NEW SECTION.    163.52    INJUNCTIVE RELIEF.

27       Sec. 9.   DIRECTIONS TO CODE EDITOR.   The Code editor shall  
28   organize chapter 163 into subchapters based on divisions of  
29   the chapter and this Act, and replace the term "division" with  
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33	EXPLANATION
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SENATE FILE 470

H-1616

- 1 Amend Senate File 470, as passed by the Senate, as  
2 follows:  
3 1. Page 3, by inserting after line 26, the  
4 following:  
5 "Sec. \_\_\_\_ . NEW SECTION. 163.53 PRIVATE CAUSES OF  
6 ACTION.  
7 This chapter does not prevent a person from  
8 commencing a civil cause of action based on any right  
9 that the person may assert under statute or common  
10 law."  
11 2. By renumbering as necessary.

By KREIMAN of Davis

H-1616 FILED APRIL 19, 2001

*Adopted 4/23/01 (P. 1404)*

HOUSE AMENDMENT TO  
SENATE FILE 470

S-3438

- 1 Amend Senate File 470, as passed by the Senate, as  
2 follows:  
3 1. Page 3, by inserting after line 26, the  
4 following:  
5 "Sec. \_\_\_\_ . NEW SECTION. 163.53 PRIVATE CAUSES OF  
6 ACTION.  
7 This chapter does not prevent a person from  
8 commencing a civil cause of action based on any right  
9 that the person may assert under statute or common  
10 law."  
11 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3438 FILED APRIL 23, 2001

*Senate Refused 4/30/01 (P. 1399)*

*House Receded 5/2/01 (P. 1737)*

SENATE FILE 470

AN ACT

RELATING TO THE REGULATION OF INFECTIOUS AND CONTAGIOUS  
DISEASES IN ANIMALS, AND PROVIDING FOR PENALTIES.

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

Section 1. Section 163.1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~In the enforcement of~~ The department shall administer and enforce the provisions of this chapter, and rules adopted by the department pursuant to this chapter. ~~In administering the provisions of this chapter,~~ the department of agriculture and land-stewardship shall have power to do all of the following:

Sec. 2. Section 163.6, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 3. Section 163.18, Code 2001, is amended to read as follows:

163.18 FALSE REPRESENTATION.

Any A person who ~~shall not~~ knowingly makes any make a false representation ~~as to the purpose for which a~~ about the shipment of ~~animals~~ an animal that is being or will be made, with the intent to avoid or prevent ~~an~~ the animal's inspection ~~of such animals for the purpose of determining that is~~ conducted in order to determine whether the animal is free from disease ~~shall be guilty of a simple misdemeanor.~~

Sec. 4. Section 163.23, Code 2001, is amended to read as follows:

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Any A veterinarian ~~issuing~~ shall not issue a certificate of health for an animal knowing that the animal described therein ~~in the certificate of health was not the same~~ animal from which the tests were made as a basis for issuing the certificate or ~~who.~~ A veterinarian shall not otherwise

~~falsifies any such~~ falsify a certificate ~~shall be guilty of a~~ fraudulent practice of health.

Sec. 5. Section 163.24, Code 2001, is amended to read as follows:

163.24 USING FALSE CERTIFICATE.

Any A person, ~~firm or corporation~~ importing, exporting, or transporting ~~shall not conduct a transaction to import, export, or transport an animal within this state or selling~~ sell or offering offer for sale ~~any an animal for which, if~~ the person uses a certificate of health has been issued and ~~who uses such certificate~~ in connection with any of said transactions the transaction knowing that the animal described in ~~said~~ the certificate of health was not the animal from which the tests were made as a basis for issuing the certificate or ~~who knowingly uses any of~~ health. A person shall not otherwise use an altered or otherwise false certificate in connection with any of ~~said transactions~~ shall be guilty of a fraudulent practice such transaction.

Sec. 6. Section 163.25, Code 2001, is amended to read as follows:

163.25 ALTERING CERTIFICATE.

Any A person, ~~firm or corporation~~ removing or altering ~~shall not remove or alter a tag or mark of identification~~ appearing on any an animal, tested or being tested for disease, any if the tag or mark of identification is authorized by the department or inserted by any qualified veterinarian or ~~altering any.~~ A person shall not alter a certificate of vaccination issued by one a person authorized to vaccinate ~~animals shall be guilty of a fraudulent practice~~ the animal.

Sec. 7. NEW SECTION. 163.51 CIVIL PENALTIES.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed. The attorney general shall cooperate with the department in the assessment and collection of civil penalties.

2. a. Except as provided in paragraph "b", a person violating a provision of this chapter, or a rule adopted pursuant to this chapter, shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. In the case of a continuing violation, each day of the continuing violation is a separate violation. However, a person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars.

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The department or the attorney general acting on behalf of the department may apply to the district court for injunctive relief in order to restrain a person from acting in violation of this chapter. In order to obtain injunctive relief, the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

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the chapter and this Act, and replace the term "division" with "subchapter" wherever it occurs in the chapter.

Sec. 10. Sections 163.21, 163.29, and 163.31, Code 2001, are repealed.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 470, Seventy-ninth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 5/16, 2001

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THOMAS J. VILSACK  
Governor