

MAR 5 2004
Place On Calendar

HOUSE FILE 2475
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 2031)

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

A BILL FOR

1 An Act relating to persons doing business as swine dealers and
2 persons engaged in the business of buying or selling feeder
3 pigs.

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

5

HOUSE FILE 2475

H-8225

1 Amend House File 2475 as follows:
2 1. Page 2, line 26, by striking the word "less"
3 and inserting the following: "later".

By S. OLSON of Clinton

H-8225 FILED MARCH 11, 2004

HOUSE FILE 2475

H-8229

1 Amend House File 2475 as follows:
2 1. Page 2, line 26, by striking the word "less"
3 and inserting the following: "later".
4 2. Page 2, by inserting after line 29, the
5 following:
6 "Sec. ____ . IMPLEMENTATION. In implementing this
7 Act, the department may adopt rules pursuant to
8 section 17A.4, subsection 2, and section 17A.5,
9 subsection 2, paragraph "b".
10 Sec. ____ . EFFECTIVE DATE. This Act, being deemed
11 of immediate importance, takes effect upon enactment."
12 3. Title page, line 3, by inserting after the
13 word "pigs" the following: "and providing an
14 effective date".

By S. OLSON of Clinton

H-8229 FILED MARCH 11, 2004

HF 2475

1 Section 1. Section 163.61, subsections 2 and 3, Code 2003,
2 are amended to read as follows:

3 2. ~~a~~ Except as provided in paragraph-"b" subsection 3, a
4 person violating a provision of this chapter, or a rule
5 adopted pursuant to this chapter, shall be subject to a civil
6 penalty of at least one hundred dollars but not more than one
7 thousand dollars. In the case of a continuing violation, each
8 day of the continuing violation is a separate violation.
9 However, a person shall not be subject to a civil penalty
10 totaling more than twenty-five thousand dollars.

11 ~~b~~ 3. Notwithstanding the provisions of paragraph-"a"
12 subsection 2, ~~a~~ all of the following apply:

13 a. A person who falsifies a health certificate,
14 veterinarian inspection certificate, or certificate of
15 inspection shall be subject to a civil penalty of not more
16 than five thousand dollars for each reference to an animal
17 falsified on the certificate. However, a person who falsifies
18 a certificate of inspection issued pursuant to chapter 166D
19 shall be subject to a civil penalty as provided in this
20 section or section 166D.16, but not both. A person shall not
21 be subject to a civil penalty totaling more than twenty-five
22 thousand dollars for falsifying a certificate, regardless of
23 the number of animals falsified on the certificate.

24 b. A person required to be licensed as a dealer pursuant
25 to section 163.30 and who is not issued a license by the
26 department pursuant to that section, but does business as a
27 dealer, shall be subject to a civil penalty of at least one
28 thousand dollars but not more than five thousand dollars.
29 Each day that the person does business as a dealer without
30 being issued a license constitutes a separate offense. A
31 person shall not be subject to a civil penalty totaling more
32 than twenty-five thousand dollars during any one year.

33 ~~3~~ 4. Moneys collected from civil penalties shall be
34 deposited into the general fund of the state.

35 Sec. 2. Section 202C.1, subsection 4, Code Supplement

1 2003, is amended to read as follows:

2 4. "Financial institution" means a bank or savings and
3 loan association authorized by this state or by the laws of
4 the United States, which is a member of the federal deposit
5 insurance corporation, ~~or~~ the federal savings and loan
6 insurance corporation, or the national bank for cooperatives
7 established in the Agricultural Credit Act, Pub. L. No. 100-
8 233.

9 Sec. 3. Section 202C.2, subsection 3, Code Supplement
10 2003, is amended to read as follows:

11 3. The amount of the evidence of financial responsibility
12 shall be established by rules which shall be adopted by the
13 department. Unless the department otherwise has good cause,
14 the rules shall be based upon the volume of sales reported by
15 the dealer to the United States department of agriculture
16 grain inspection, packers and stockyards administration.
17 However, the evidence of financial responsibility shall not be
18 for less than fifty five thousand dollars or for more than
19 three-hundred twenty-five thousand dollars. The department
20 may increase the amount of the evidence of financial
21 responsibility for a dealer upon a showing of good cause.

22 Sec. 4. Section 202C.3, Code Supplement 2003, is amended
23 by adding the following new subsection:

24 NEW SUBSECTION. 3. A legal action brought by a purchaser
25 against the surety on the bond or the issuer of the
26 irrevocable letter of credit shall be brought not less than
27 one hundred eighty days after the date that the dealer
28 delivers the feeder pigs to the purchaser pursuant to the
29 sales agreement.

30 EXPLANATION

31 During the 2003 Session, the general assembly enacted House
32 File 617 (Code chapter 202C), which provides that a dealer of
33 feeder pigs must file evidence of financial security with the
34 department of agriculture and land stewardship. The evidence
35 of financial security may be a bond or irrevocable letter of

1 credit. The dealer must file the evidence of financial
2 security before being licensed by the department to conduct a
3 feeder pig dealer business under Code section 163.30.

4 Code section 202C.2 provides that the amount of the
5 evidence of financial responsibility must be established by
6 departmental rule, which is generally based on the volume of
7 sales reported by the dealer to the United States department
8 of agriculture grain inspection, packers and stockyards
9 administration.

10 The bill provides that a person required to be licensed as
11 a feeder pig dealer but who does business without being
12 licensed is subject to a civil penalty of at least \$1,000 but
13 not more than \$5,000. The bill reduces the amount of
14 financial responsibility required to be maintained by a
15 dealer, from the current amount of between \$50,000 and
16 \$300,000 to between \$5,000 and \$25,000.

17 The bill also establishes limitations on when a purchaser
18 may bring a legal action against a surety on the bond or the
19 issuer of the irrevocable letter of credit.

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HOUSE FILE 2475
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 2031)

(As Amended and Passed by the House March 16, 2004)

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

A BILL FOR

1 An Act relating to persons doing business as swine dealers and
2 persons engaged in the business of buying or selling feeder
3 pigs and providing an effective date.

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

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House Amendments _____

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1 Section 1. Section 163.61, subsections 2 and 3, Code 2003,
2 are amended to read as follows:

3 2. ~~a.~~ Except as provided in ~~paragraph-"b"~~ subsection 3, a
4 person violating a provision of this chapter, or a rule
5 adopted pursuant to this chapter, shall be subject to a civil
6 penalty of at least one hundred dollars but not more than one
7 thousand dollars. In the case of a continuing violation, each
8 day of the continuing violation is a separate violation.
9 However, a person shall not be subject to a civil penalty
10 totaling more than twenty-five thousand dollars.

11 ~~b.~~ 3. Notwithstanding the provisions of ~~paragraph-"a"~~
12 subsection 2, ~~a~~ all of the following apply:

13 a. A person who falsifies a health certificate,
14 veterinarian inspection certificate, or certificate of
15 inspection shall be subject to a civil penalty of not more
16 than five thousand dollars for each reference to an animal
17 falsified on the certificate. However, a person who falsifies
18 a certificate of inspection issued pursuant to chapter 166D
19 shall be subject to a civil penalty as provided in this
20 section or section 166D.16, but not both. A person shall not
21 be subject to a civil penalty totaling more than twenty-five
22 thousand dollars for falsifying a certificate, regardless of
23 the number of animals falsified on the certificate.

24 b. A person required to be licensed as a dealer pursuant
25 to section 163.30 and who is not issued a license by the
26 department pursuant to that section, but does business as a
27 dealer, shall be subject to a civil penalty of at least one
28 thousand dollars but not more than five thousand dollars.
29 Each day that the person does business as a dealer without
30 being issued a license constitutes a separate offense. A
31 person shall not be subject to a civil penalty totaling more
32 than twenty-five thousand dollars during any one year.

33 ~~3.~~ 4. Moneys collected from civil penalties shall be
34 deposited into the general fund of the state.

35 Sec. 2. Section 202C.1, subsection 4, Code Supplement

1 2003, is amended to read as follows:

2 4. "Financial institution" means a bank or savings and
3 loan association authorized by this state or by the laws of
4 the United States, which is a member of the federal deposit
5 insurance corporation, ~~or~~ the federal savings and loan
6 insurance corporation, or the national bank for cooperatives
7 established in the Agricultural Credit Act, Pub. L. No. 100-
8 233.

9 Sec. 3. Section 202C.2, subsection 3, Code Supplement
10 2003, is amended to read as follows:

11 3. The amount of the evidence of financial responsibility
12 shall be established by rules which shall be adopted by the
13 department. Unless the department otherwise has good cause,
14 the rules shall be based upon the volume of sales reported by
15 the dealer to the United States department of agriculture
16 grain inspection, packers and stockyards administration.
17 However, the evidence of financial responsibility shall not be
18 for less than fifty five thousand dollars or for more than
19 three-hundred twenty-five thousand dollars. The department
20 may increase the amount of the evidence of financial
21 responsibility for a dealer upon a showing of good cause.

22 Sec. 4. Section 202C.3, Code Supplement 2003, is amended
23 by adding the following new subsection:

24 NEW SUBSECTION. 3. A legal action brought by a purchaser
25 against the surety on the bond or the issuer of the
26 irrevocable letter of credit shall be brought not later than
27 one hundred eighty days after the date that the dealer
28 delivers the feeder pigs to the purchaser pursuant to the
29 sales agreement.

30 Sec. 5. IMPLEMENTATION. In implementing this Act, the
31 department may adopt rules pursuant to section 17A.4,
32 subsection 2, and section 17A.5, subsection 2, paragraph "b".

33 Sec. 6. EFFECTIVE DATE. This Act, being deemed of
34 immediate importance, takes effect upon enactment.

35

HOUSE FILE 2475

AN ACT

RELATING TO PERSONS DOING BUSINESS AS SWINE DEALERS AND
PERSONS ENGAGED IN THE BUSINESS OF BUYING OR SELLING FEEDER
PIGS AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 163.61, subsections 2 and 3, Code 2003,
are amended to read as follows:

2. a. Except as provided in paragraph-"b" subsection 3, 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.

b. 3. Notwithstanding the provisions of paragraph-"a"
subsection 2, a all of the following apply:

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.

b. A person required to be licensed as a dealer pursuant

to section 163.30 and who is not issued a license by the
department pursuant to that section, but does business as a
dealer, shall be subject to a civil penalty of at least one
thousand dollars but not more than five thousand dollars.
Each day that the person does business as a dealer without
being issued a license constitutes a separate offense. A
person shall not be subject to a civil penalty totaling more
than twenty-five thousand dollars during any one year.

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

Sec. 2. Section 202C.1, subsection 4, Code Supplement
2003, is amended to read as follows:

4. "Financial institution" means a bank or savings and
loan association authorized by this state or by the laws of
the United States, which is a member of the federal deposit
insurance corporation, or the federal savings and loan
insurance corporation, or the national bank for cooperatives
established in the Agricultural Credit Act, Pub. L. No. 100-
233.

Sec. 3. Section 202C.2, subsection 3, Code Supplement
2003, is amended to read as follows:

3. The amount of the evidence of financial responsibility
shall be established by rules which shall be adopted by the
department. Unless the department otherwise has good cause,
the rules shall be based upon the volume of sales reported by
the dealer to the United States department of agriculture
grain inspection, packers and stockyards administration.
However, the evidence of financial responsibility shall not be
for less than thirty five thousand dollars or for more than
three-hundred twenty-five thousand dollars. The department
may increase the amount of the evidence of financial
responsibility for a dealer upon a showing of good cause.

Sec. 4. Section 202C.3, Code Supplement 2003, is amended
by adding the following new subsection:

NEW SUBSECTION. 3. A legal action brought by a purchaser

against the surety on the bond or the issuer of the irrevocable letter of credit shall be brought not later than one hundred eighty days after the date that the dealer delivers the feeder pigs to the purchaser pursuant to the sales agreement.

Sec. 5. IMPLEMENTATION. In implementing this Act, the department may adopt rules pursuant to section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b".

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2475, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor