

Withdrawn
4/3/03

FEB 28 2003
Agriculture

HOUSE FILE 350
BY GREINER

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

A BILL FOR

1 An Act requiring that dealers of certain swine file a surety bond
2 with the department of agriculture and land stewardship.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HC 350

1 Section 1. Section 163.30, subsection 3, unnumbered
2 paragraph 1, Code 2003, is amended to read as follows:

3 No A person shall not act as a dealer ~~without-first~~
4 ~~securing~~ unless the department issues the person a dealer's
5 license from-the-department. The person must be licensed as a
6 dealer regardless of whether the swine originate in this state
7 or another jurisdiction or the person resides in this state or
8 another jurisdiction. The jurisdiction may be in another
9 state or a foreign nation.

10 a. The fee for a dealer's license ~~shall-be~~ is five dollars
11 ~~per-annum-and-all-licenses-shall-expire~~ each year. A license
12 expires on the first day of July following the date of issue.
13 ~~licenses~~ A license shall be numbered and the dealer shall
14 retain the number from year to year.

15 3A. To ~~secure~~ be issued a license, the an applicant must
16 file a surety bond with the department ~~a-bond-in-the-sum-of.~~
17 The applicant shall file a standard surety bond of ten
18 thousand dollars with the secretary named as trustee, for the
19 use and benefit of anyone damaged by a violation of this
20 section, except that the bond shall not be required for
21 dealers who are bonded in the same or a greater amount than
22 required pursuant to the federal Packers and Stockyards Act.
23 In addition, the department may require that a licensee file
24 an additional surety bond with the department prior to a
25 license being renewed as provided in section 202C.2.

26 Sec. 2. NEW SECTION. 202C.1 DEFINITIONS.

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

- 29 1. "Dealer" means a person required to be licensed as a
30 dealer pursuant to section 163.30.
- 31 2. "Department" means the department of agriculture and
32 land stewardship.
- 33 3. "Feeder pig" means an immature swine fed for purposes
34 of direct slaughter which weighs one hundred pounds or less.
- 35 4. "Purchaser" means the owner or operator of a farm as

1 provided in section 163.30 who is delivered feeder pigs
2 pursuant to a sales agreement in which the owner or operator
3 is a party.

4 Sec. 3. NEW SECTION. 202C.2 SURETY BOND -- REQUIREMENTS.

5 1. The department shall require that a dealer file a
6 surety bond if the department determines that the dealer is
7 delivering feeder pigs to purchasers pursuant to a sales
8 agreement and the delivered feeder pigs have a substantially
9 higher than average rate of morbidity or mortality.

10 2. The amount of the surety bond shall be established by
11 the department, but shall not exceed three hundred thousand
12 dollars.

13 3. The surety bond must be conditioned upon the dealer's
14 faithful performance of a sales agreement by delivering feeder
15 pigs that have a rate of morbidity or mortality in compliance
16 with the terms and conditions of the sales agreement. The
17 surety's liability extends to each such sales agreement
18 executed while the surety bond is in force and until
19 performance or the rescision of the sales agreement.

20 4. The surety bond shall be continuous in nature until
21 canceled by the surety. The surety shall provide at least
22 ninety days' notice in writing to the dealer and the
23 department indicating the surety's intent to cancel the surety
24 bond and the effective date of the cancellation. The dealer
25 shall have sixty days from the date of receipt of the surety's
26 notice of cancellation to file a replacement surety bond.

27 5. The aggregate liability of the surety for a breach of
28 the conditions of the surety bond shall not exceed the amount
29 of the surety bond.

30 Sec. 4. NEW SECTION. 202C.3 SURETY -- LIABILITY.

31 In a legal action based on breach of contract by a
32 purchaser for the delivery of feeder pigs which have a rate of
33 morbidity or mortality which is not in compliance with the
34 terms and conditions of the sales agreement, the surety is
35 liable to the purchaser. The purchaser may sue the surety to

1 recover actual damages caused by the breach, together with
2 interest as determined pursuant to section 668.13 from the
3 date of sale, reasonable attorney fees, and court costs.

4 Sec. 5. NEW SECTION. 202C.4 DEPARTMENTAL RULES.

5 The department shall adopt rules as required to administer
6 this chapter, including but not limited to rules providing for
7 threshold rates of mortality or morbidity, qualifications for
8 sureties, procedures for filing a surety bond or replacement
9 surety bond, requirements for the cancellation of the surety
10 bond by a surety, and the liability of a surety after
11 cancellation.

12 EXPLANATION

13 This bill provides that a dealer of feeder pigs may be
14 required to obtain a surety bond filed with the department of
15 agriculture and land stewardship.

16 Under Code chapter 163 regulating infectious and contagious
17 diseases among animal populations, a dealer who is engaged in
18 the business of selling swine must be licensed by the
19 department and secure a bond of \$10,000. The bill amends Code
20 section 163.30 to provide that a dealer must be licensed
21 regardless of where the swine originate or where the dealer
22 resides. It also provides that in addition to the standard
23 bond, a dealer of feeder pigs may be required to file an
24 additional bond with the department as provided in new Code
25 chapter 202C.

26 Under the new Code chapter, the department must require
27 that a dealer required to be licensed under Code section
28 163.30 must file a surety bond if the department determines
29 that the dealer is delivering feeder pigs that have a
30 substantially higher than average rate of morbidity or
31 mortality. According to the bill, the amount of the bond
32 cannot exceed \$300,000. The bond is conditioned upon the
33 dealer's faithful performance of a sales agreement by
34 delivering feeder pigs that have a rate of morbidity or
35 mortality that complies with the sales agreement. The bill

1 provides procedures for filing and canceling such a bond and
2 substituting a bond in case of cancellation. The bill
3 provides that a purchaser may bring a legal action against the
4 surety to recover damages and interest based on breach of
5 contract for the delivery of the feeder pigs.

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