

# House Study Bill 697

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON DRAKE)

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

## A BILL FOR

1 An Act regulating transmissible viruses afflicting poultry and  
2 providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 5739HC 80  
5 da/gg/14

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1 1 Section 1. Section 163.2, unnumbered paragraph 1, Code  
1 2 2003, is amended to read as follows:  
1 3 For the purpose of this chapter, infectious and contagious  
1 4 diseases shall be deemed to ~~embrace~~ include glanders, farcy,  
1 5 maladie du coit (dourine), anthrax, foot and mouth disease,  
1 6 scabies, hog cholera, swine dysentery, tuberculosis,  
1 7 brucellosis, vesicular exanthema, scrapie, rinderpest, ovine  
1 8 foot rot, avian influenza or Newcastle disease as provided in  
1 9 chapter 165B, or any other communicable disease so designated  
1 10 by the department.  
1 11 Sec. 2. NEW SECTION. 165B.1 DEFINITIONS.  
1 12 1. "Concentration point" means a location or facility  
1 13 where poultry originating from the same or different sources  
1 14 are assembled for any purpose. However, a concentration point  
1 15 does not include an animal feeding operation as defined in  
1 16 section 459.102 if the poultry are provided care and feeding  
1 17 for purposes of egg production or slaughter.  
1 18 2. "Department" means the department of agriculture and  
1 19 land stewardship.  
1 20 3. "Manure" means the same as defined in section 459.102.  
1 21 4. "Pathogenic virus" means any of the following:  
1 22 a. A recognized serotype of the virus avian paramyxovirus  
1 23 which is classified as a velogenic or mesogenic strain of that  
1 24 virus and which may be transmitted to poultry.  
1 25 b. A recognized serotype of the virus commonly referred to  
1 26 as avian influenza which may be transmitted to poultry.  
1 27 5. "Poultry" means domesticated fowl which are chickens,  
1 28 ducks, or turkeys.  
1 29 6. "Separate and apart" means to hold poultry so that  
1 30 neither the poultry nor organic material originating from the  
1 31 poultry has physical contact with other animals.  
1 32 7. "Slaughtering establishment" means a slaughtering  
1 33 establishment operated under the provisions of the federal  
1 34 Meat Inspection Act, 21 U.S.C. } 601 et seq., or a  
1 35 slaughtering establishment that has been inspected by the  
2 1 state.  
2 2 Sec. 3. NEW SECTION. 165B.2 ADMINISTRATION AND  
2 3 ENFORCEMENT.  
2 4 1. The provisions of this chapter, including departmental  
2 5 rules adopted pursuant to this chapter, shall be administered  
2 6 and enforced by the department. The department shall  
2 7 establish, by rule, civil penalties which may be  
2 8 administratively or judicially assessed. The department may  
2 9 impose, assess, and collect the civil penalties. The attorney  
2 10 general or county attorney may bring a judicial action or  
2 11 prosecution necessary to enforce the provisions of this  
2 12 chapter.  
2 13 2. The provisions of this chapter do not limit the  
2 14 authority of the department, another state agency, or a  
2 15 political subdivision to regulate or bring an enforcement  
2 16 action against a person based on another provision of law,  
2 17 including but not limited to provisions in chapter 163, 717B,  
2 18 or 717D.  
2 19 Sec. 4. NEW SECTION. 165B.3 DETERMINATION OF INFECTION.  
2 20 The department may adopt rules if necessary to provide  
2 21 methods and procedures to determine whether poultry are  
2 22 infected with a pathogenic virus, which may include detection

2 23 and analysis of the disease using techniques approved by the  
2 24 United States department of agriculture.

2 25 Sec. 5. NEW SECTION. 165B.4 INFECTED AND EXPOSED POULTRY  
2 26 == CIVIL PENALTY == INJUNCTIVE RELIEF.

2 27 1. A person who is the owner or custodian of poultry  
2 28 infected with or exposed to a pathogenic virus shall keep the  
2 29 poultry separate and apart, and shall dispose of infected or  
2 30 exposed poultry in accordance with requirements of the  
2 31 department. The person shall ensure the premises where such  
2 32 poultry are kept are sanitized as required by the department.  
2 33 The person shall dispose of the poultry carcasses, eggs, or  
2 34 manure as provided by the department.

2 35 2. A person who violates this section is subject to a  
3 1 civil penalty of at least one hundred dollars but not more  
3 2 than one thousand dollars, as determined by the department.  
3 3 In the case of a continuing violation, each day of the  
3 4 continuing violation is a separate violation. However, a  
3 5 person shall not be subject to a civil penalty totaling more  
3 6 than twenty-five thousand dollars.

3 7 3. The department may seek injunctive relief as provided  
3 8 in section 163.62.

3 9 Sec. 6. NEW SECTION. 165B.5 RESTRICTED CONCENTRATION  
3 10 POINTS == CIVIL PENALTIES.

3 11 1. A person shall not operate a restricted concentration  
3 12 point which the department determines may pose a significant  
3 13 risk that poultry may be infected or exposed to a pathogenic  
3 14 virus. A restricted concentration point includes, but is not  
3 15 limited to, all of the following:

3 16 a. An establishment where poultry are sold, bartered, or  
3 17 offered for sale or barter, if the establishment is part of a  
3 18 market where poultry are sold, bartered, or offered for sale  
3 19 or barter to the general public.

3 20 b. An establishment where poultry are placed together as  
3 21 part of a contest, including but not limited to an event  
3 22 conducted for purposes of producing violent contact between  
3 23 the poultry.

3 24 2. Subsection 1 does not apply to any of the following:

3 25 a. A slaughtering establishment, public stockyard,  
3 26 livestock auction market, state or federal market, livestock  
3 27 buying station, or a livestock dealer's yard, truck, or  
3 28 facility.

3 29 b. A fair conducted pursuant to chapter 173 or 174.

3 30 c. An event sanctioned by the department.

3 31 d. A 4-H function.

3 32 e. An event sponsored or sanctioned by the Iowa turkey  
3 33 marketing council, the Iowa turkey federation, the national  
3 34 turkey federation, the Iowa poultry association, the Iowa egg  
3 35 council, the American egg board, or the American poultry  
4 1 association.

4 2 3. a. A person who owns or operates a restricted  
4 3 concentration point is subject to a civil penalty of not less  
4 4 than five thousand dollars for the first violation and not  
4 5 less than twenty-five thousand dollars for each subsequent  
4 6 violation. Each day that a violation continues constitutes a  
4 7 separate violation.

4 8 b. A person who has a legal interest in infected poultry  
4 9 or has custody of infected poultry which are located at a  
4 10 restricted concentration point is subject to a civil penalty  
4 11 of not less than five thousand dollars for the first violation  
4 12 and not less than twenty-five thousand dollars for each  
4 13 subsequent violation. Each day that a violation continues  
4 14 constitutes a separate violation.

4 15 c. A person who transports poultry to or from a  
4 16 concentration point is subject to a civil penalty of not less  
4 17 than one thousand dollars for the first violation and not less  
4 18 than five thousand dollars for each subsequent violation.  
4 19 Each day that a violation continues constitutes a separate  
4 20 violation.

4 21 d. A person who purchases, offers to purchase, barter, or  
4 22 offers to barter for poultry at a restricted concentration  
4 23 point is subject to a civil penalty of not less than one  
4 24 hundred dollars for the first violation and not less than one  
4 25 thousand dollars for each subsequent violation. Each day that  
4 26 a violation continues constitutes a separate violation.

4 27 e. A person who charges admission for entry into a  
4 28 restricted concentration point where a contest occurs or  
4 29 otherwise holds, advertises, or conducts the contest is  
4 30 subject to a civil penalty of not less than one thousand  
4 31 dollars for the first violation and not less than five  
4 32 thousand dollars for each subsequent violation. Each day that  
4 33 a violation continues constitutes a separate violation.

4 34 f. A person who attends or participates in a contest at a  
4 35 restricted concentration point where a contest occurs is  
5 1 subject to a civil penalty of not less than one hundred  
5 2 dollars for the first violation and not less than one thousand  
5 3 dollars for each subsequent violation. Each day that a  
5 4 violation continues constitutes a separate violation.  
5 5 4. If a person is found in violation of this section, the  
5 6 person's property which is associated with the violation is  
5 7 forfeitable property as provided in chapter 809.

5 8 EXPLANATION

5 9 This bill regulates certain viruses affecting poultry,  
5 10 including avian paramyxovirus, commonly referred to as  
5 11 Newcastle disease, and avian influenza. The bill refers to  
5 12 these viruses as pathogenic viruses. The bill adds these  
5 13 viruses to the list of infectious and contagious diseases  
5 14 enumerated in Code chapter 163. That chapter provides general  
5 15 authority to the department of agriculture and land  
5 16 stewardship to protect animal populations against threats to  
5 17 health.

5 18 The bill creates a new Code chapter 165B to be administered  
5 19 by the department. The bill authorizes the department to  
5 20 adopt rules under the Code chapter, which may include the  
5 21 approval of methods to determine infection. The bill provides  
5 22 that the owners or custodians of poultry infected with or  
5 23 exposed to the virus must take measures designed to prevent  
5 24 its spread as required by the department.

5 25 The bill also authorizes the department to regulate certain  
5 26 concentration points where poultry are assembled other than  
5 27 for their care and feeding.

5 28 The bill establishes a number of civil penalties. The  
5 29 owner or custodian of poultry infected with the pathogenic  
5 30 virus is subject to a civil penalty of at least \$100 and not  
5 31 more than \$1,000. The bill provides other civil penalties  
5 32 which apply to persons involved in restricted concentration  
5 33 points, including a person who owns or operates a restricted  
5 34 concentration point; has a legal interest in infected poultry  
5 35 or has custody of infected poultry; transports poultry to or  
6 1 from a restricted concentration point; purchases, offers to  
6 2 purchase, barter, or offers to barter for poultry at a  
6 3 restricted concentration point; charges admission for entry  
6 4 into a restricted concentration point where a contest occurs  
6 5 or otherwise holds, advertises, or conducts the contest; or  
6 6 attends or participates in a contest at a restricted  
6 7 concentration point where a contest occurs. The amount of the  
6 8 civil penalties range from \$100 to \$5,000 for the first  
6 9 violation and from \$1,000 to \$25,000 for a subsequent  
6 10 violation.

6 11 The bill also provides that if a person is found in  
6 12 violation of a provision related to a restricted concentration  
6 13 point, the person's property which is involved in the  
6 14 violation is subject to seizure and forfeiture.

6 15 LSB 5739HC 80

6 16 da/gg/14