

House Study Bill 661

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
AGRICULTURE AND LAND
STEWARDSHIP BILL)

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

A BILL FOR

1 An Act relating to establishments having custody of companion
2 animals, by providing for their regulation, and providing for
3 fees and penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5438DP 81
6 da/je/5

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1 1 Section 1. Section 162.1, subsection 1, Code 2005, is
1 2 amended to read as follows:

1 3 1. To ~~insure that~~ ensure all of the following:

~~1 4 a. That all dogs and cats handled by boarding kennels,
1 5 commercial kennels, commercial breeders, dealers, and public
1 6 auctions that are in the custody of an establishment are~~

1 7 provided with humane care and treatment, including by
1 8 regulating the transportation, sale, purchase, housing, care,
1 9 handling, and treatment of such animals by persons ~~or
1 10 organizations engaged in housing, transporting, buying, or
1 11 selling them, and to provide that~~

1 12 b. That all vertebrate companion animals consigned to pet
1 13 shops are provided humane care and treatment, by regulating
1 14 the transportation, sale, purchase, housing, care, handling,
1 15 and treatment of such animals by pet shops.

1 16 Sec. 2. Section 162.2, subsections 6 and 12, Code
1 17 Supplement 2005, are amended to read as follows:

1 18 6. "Commercial breeder" means a person, engaged in the
1 19 business of breeding dogs or cats, who sells, exchanges, or
1 20 leases dogs or cats in return for consideration, or who offers
1 21 to do so, whether or not the animals are raised, trained,
1 22 groomed, or boarded by the person. A person who owns or
1 23 harbors three or fewer ~~breeding sexually intact~~ males or
1 24 females that are more than one year of age is not a commercial
1 25 breeder. However, a person who breeds or harbors more than
1 26 three ~~breeding sexually intact~~ male or female greyhounds for
1 27 the purposes of using them for pari-mutuel racing shall be
1 28 considered a commercial breeder irrespective of whether the
1 29 person sells, leases, or exchanges the greyhounds for
1 30 consideration or offers to do so.

~~1 31 12. "Pet shop" means an establishment where a dog, cat,
1 32 rabbit, rodent, nonhuman primate, fish other than live bait,
1 33 bird, or other vertebrate animal a person who maintains a
1 34 companion animal if the companion animal is being bought,
1 35 sold, exchanged, or offered for sale. However, a person is
2 1 not a pet shop does not include an establishment if one of the
2 2 following applies:~~

2 3 a. The ~~establishment person~~ person receives less than five
2 4 hundred dollars from the sale ~~or exchange~~ of vertebrate
2 5 companion animals during a twelve-month period.

~~2 6 b. The establishment sells or exchanges person transfers
2 7 custody of less than six companion animals by sale during a
2 8 twelve-month period.~~

2 9 Sec. 3. Section 162.2, Code Supplement 2005, is amended by
2 10 adding the following new subsections:

2 11 NEW SUBSECTION. 6A. "Commercial establishment" means a
2 12 commercial breeder, boarding kennel, commercial kennel, pet
2 13 shop, or public auction.

2 14 NEW SUBSECTION. 7A. "Companion animal" means a vertebrate
2 15 animal other than livestock as defined in section 717.1.

2 16 NEW SUBSECTION. 8A. "Establishment" means a commercial
2 17 establishment, an animal shelter, a pound, or a research

2 18 facility.

2 19 NEW SUBSECTION. 16A. "Sale" or "sell" means any transfer
2 20 for a consideration, exchange, adoption, barter, or offer for
2 21 sale, exchange, adoption, or barter.

2 22 Sec. 4. Section 162.2, subsection 17, Code Supplement
2 23 2005, is amended by striking the subsection.

2 24 Sec. 5. Section 162.3, Code 2005, is amended to read as
2 25 follows:

2 26 162.3 ~~CERTIFICATE OF REGISTRATION LICENSE FOR POUND.~~

~~2 27 A pound shall not be operated unless a certificate of
2 28 registration license for the pound is granted issued by the
2 29 secretary. Application for the certificate license shall be
2 30 made in the manner approved by the secretary. Certificates of
2 31 registration expire A license expires one year from date of
2 32 issue issuance unless revoked and may be renewed upon
2 33 application in the manner provided by the secretary. A
2 34 registered licensed pound may engage in the sale of dogs or
2 35 cats under its control, if the privilege is allowed by the
3 1 department secretary, but no fee shall be charged for
3 2 licensing the pound unless the registered licensed pound is
3 3 privately owned. The registration license fee for a privately
3 4 owned pound that sells dogs or cats is fifteen dollars per
3 5 year. The fee for an original license or renewed license is
3 6 due on the date that the original license is issued or the
3 7 license expires. The renewal fee is the same as the original
3 8 license fee. However, if the renewal license application
3 9 including the renewal fee is submitted more than thirty days
3 10 after the expiration of the license, the pound shall also pay
3 11 a delinquent fee of twenty-five dollars. The fees collected
3 12 by the department shall be deposited into the general fund of
3 13 the state.~~

3 14 Sec. 6. Section 162.5, Code 2005, is amended to read as
3 15 follows:

3 16 162.5 PET SHOP LICENSE.

~~3 17 A person shall not operate a pet shop unless the person has
3 18 obtained a license to operate a pet shop issued by the
3 19 secretary. Application for the license shall be made in the
3 20 manner provided by the secretary. The license expires one
3 21 year from the date of issue issuance unless revoked and may be
3 22 renewed in the manner provided by the secretary. The license
3 23 fee is fifty dollars per year. The license may be renewed if
3 24 the licensee has conformed to all statutory and regulatory
3 25 requirements. The fee for an original license or renewed
3 26 license is due on the date that the license is issued or
3 27 expires. The license renewal fee is the same as the original
3 28 license fee. However, if the license renewal application
3 29 including the renewal fee is submitted more than thirty days
3 30 after the license's expiration, the person shall also pay a
3 31 delinquent fee of twenty-five dollars. The fees collected by
3 32 the department shall be deposited into the general fund of the
3 33 state.~~

3 34 Sec. 7. Section 162.6, Code 2005, is amended to read as
3 35 follows:

4 1 162.6 COMMERCIAL KENNEL OR PUBLIC AUCTION LICENSE.

~~4 2 A person shall not operate a commercial kennel or public
4 3 auction unless the person has obtained a license to operate a
4 4 the commercial kennel or a public auction issued by the
4 5 secretary or unless the person has obtained a certificate of
4 6 registration issued by the secretary if the kennel is
4 7 federally licensed. Application for the license or the
4 8 certificate shall be made on a form and in the manner provided
4 9 by the secretary. The A license and the or a certificate
4 10 expire expires one year from the date of issue issuance unless
4 11 revoked. The license fee is forty dollars per year and the
4 12 certification fee is twenty dollars annually. If the person
4 13 has obtained a federal license, the person need only obtain a
4 14 certificate. The license may be renewed upon application and
4 15 payment of the prescribed fee in the manner provided by the
4 16 secretary if the licensee has conformed to all statutory and
4 17 regulatory requirements. The certificate may be renewed upon
4 18 application and payment of the prescribed fee in the manner
4 19 provided by the secretary. The fee for an original license or
4 20 certificate or renewed license or certificate is due on the
4 21 date that the license or certificate is issued or expires, as
4 22 applicable. The license renewal fee is the same as the
4 23 original license fee. The certificate renewal fee is the same
4 24 as the original certification fee. However, if the license
4 25 renewal application including the renewal fee or the
4 26 certificate renewal application including the renewal fee is
4 27 submitted more than thirty days after the expiration of the
4 28 license or certificate, the person shall also pay a delinquent~~

4 29 fee of twenty-five dollars. The fees collected by the
4 30 department shall be deposited into the general fund of the
4 31 state.

4 32 Sec. 8. Section 162.7, Code 2005, is amended to read as
4 33 follows:

4 34 162.7 DEALER LICENSE.

4 35 A person shall not operate as a dealer unless the person
5 1 has obtained a license issued by the secretary or unless the
5 2 person has obtained a certificate of registration issued by
5 3 the secretary if the kennel is federally licensed.
5 4 Application for the license or the certificate shall be made
5 5 on forms and in the manner provided by the secretary. ~~The A~~
5 6 license and or certificate expire expires one year from the
5 7 date of issue issuance unless revoked. The license fee is one
5 8 hundred dollars ~~per year~~ and the certification fee is twenty
5 9 dollars ~~per year~~. The license may be renewed upon application
5 10 and payment of ~~the a renewal~~ fee in the manner provided by the
5 11 secretary if the licensee has conformed to all statutory and
5 12 regulatory requirements. The certificate may be renewed upon
5 13 application and payment of the fee in the manner provided by
5 14 the secretary. The fee for an original license or certificate
5 15 or renewed license or certificate is due on the date that the
5 16 license or certificate is issued or expires. The license
5 17 renewal fee is the same as the original license fee. The
5 18 certificate renewal fee is the same as the original
5 19 certification fee. However, if the license renewal
5 20 application including the renewal fee or the certificate
5 21 renewal application including the renewal fee is submitted
5 22 more than thirty days after the expiration of the license or
5 23 certificate, the person must also pay a delinquent fee of
5 24 twenty-five dollars. The fees collected by the department
5 25 shall be deposited into the general fund of the state.

5 26 Sec. 9. Section 162.8, Code 2005, is amended to read as
5 27 follows:

5 28 162.8 COMMERCIAL BREEDER'S LICENSE.

5 29 A person shall not operate as a commercial breeder unless
5 30 the person has obtained a license issued by the secretary or
5 31 unless the person has obtained a certificate of registration
5 32 issued by the secretary if the ~~kennel breeder~~ is federally
5 33 licensed. Application for the license or the certificate
5 34 shall be made in the manner provided by the secretary. The
5 35 annual license or the certification period expires one year
6 1 from the date of issue issuance. The license fee is forty
6 2 dollars ~~per year~~ and the certificate certification fee is
6 3 twenty dollars ~~per year~~. The license may be renewed upon
6 4 application and payment of the prescribed fee in the manner
6 5 provided by the secretary if the licensee has conformed to all
6 6 statutory and regulatory requirements. The certificate may be
6 7 renewed upon application and payment of the prescribed fee in
6 8 the manner provided by the secretary. The fee for an original
6 9 license or certificate or renewed license or certificate is
6 10 due on the date that the license or certificate is issued or
6 11 expires. The license renewal fee is the same as the original
6 12 license fee. The certificate renewal fee is the same as the
6 13 original certification fee. However, if the license renewal
6 14 application including the renewal fee or the certificate
6 15 renewal application including the renewal fee is submitted
6 16 more than thirty days after the expiration of the license or
6 17 certificate, the person must also pay a delinquent fee of
6 18 twenty-five dollars. The fees collected by the department
6 19 shall be deposited into the general fund of the state.

6 20 Sec. 10. Section 162.9, Code 2005, is amended to read as
6 21 follows:

6 22 162.9 BOARDING KENNEL OPERATOR'S LICENSE.

6 23 A person shall not operate a boarding kennel unless the
6 24 person has obtained a license to operate a boarding kennel
6 25 issued by the secretary. Application for the license shall be
6 26 made in the manner provided by the secretary and expires one
6 27 year from the date of issue issuance. The license fee is
6 28 thirty dollars ~~per year~~. The license may be renewed upon
6 29 application and payment of the prescribed fee in the manner
6 30 provided by the secretary if the licensee has conformed to all
6 31 statutory and regulatory requirements. The fee for an
6 32 original license or renewed license is due on the date that
6 33 the license is issued or expires. The license renewal fee is
6 34 the same as the original license fee. However, if the license
6 35 renewal application including the renewal fee is submitted
7 1 more than thirty days after the license's expiration, the
7 2 person shall also pay a delinquent fee of twenty-five dollars.
7 3 The fees collected by the department shall be deposited into
7 4 the general fund of the state.

7 5 Sec. 11. Section 162.11, subsection 2, Code 2005, is
7 6 amended to read as follows:

7 7 2. The certificate of registration may be denied or
7 8 revoked if the person no longer possesses a current and valid
7 9 federal license. Other than obtaining the certificate of
7 10 registration from the secretary, any dealer or commercial
7 11 breeder and any person who operates a commercial kennel or
7 12 public auction shall not be subject to further regulation
7 13 under the provisions of this chapter. However, the department
7 14 may enter into a contractual agreement with the United States
7 15 department of agriculture to provide for the regulation and
7 16 inspection of a person qualifying for an exception provided in
7 17 this section.

7 18 Sec. 12. Section 162.12, Code 2005, is amended to read as
7 19 follows:

7 20 162.12 DENIAL OR REVOCATION OF LICENSE OR REGISTRATION
7 21 ENFORCEMENT.

7 22 1. ~~The secretary may deny an application for a license~~
7 23 ~~or certificate of registration may be denied to any pound or~~
7 24 ~~animal shelter and a license or certificate of registration~~
7 25 ~~may be denied to any public auction, boarding kennel,~~
7 26 ~~commercial kennel, research facility, pet shop, commercial~~
7 27 ~~breeder, or dealer, or the secretary may suspend or revoke an~~
7 28 ~~existing certificate or license may be revoked by the~~
7 29 ~~secretary if, after public hearing, license if a person~~
7 30 ~~violates this section.~~

7 31 The secretary shall initiate a contested case action
7 32 against a person as provided in chapter 17A, if it is
7 33 determined that the person violates this section by doing any
7 34 of the following:

7 35 a. Maintaining housing facilities or primary enclosures
8 1 which are inadequate under this chapter, or if the
8 2 b. Providing inadequate feeding, watering, cleaning, and
8 3 housing, or veterinary care practices at the pound, animal
8 4 shelter, public auction, pet shop, boarding kennel, commercial
8 5 kennel, research facility, or those practices by the
8 6 commercial breeder or dealer, at the establishment which are
8 7 not in compliance with this chapter or with the rules adopted
8 8 pursuant to this chapter.

8 9 c. Committing animal abuse, animal neglect, or animal
8 10 torture as provided in chapter 717B.

8 11 2. The premises of each licensee or certificate holder
8 12 establishment shall be open for inspection during normal
8 13 business hours.

8 14 3. If a person elects to obtain and maintain a federal
8 15 license in lieu of a state license as provided in this
8 16 chapter, but fails to obtain or maintain the federal license,
8 17 the secretary may deny the person's application for a
8 18 certificate of registration or suspend or revoke the person's
8 19 existing certificate of registration.

8 20 Sec. 13. Section 162.13, Code 2005, is amended to read as
8 21 follows:

8 22 162.13 PENALTIES.

8 23 1. Operation of a pound, animal shelter, pet shop,
8 24 boarding kennel, commercial kennel, research facility, or
8 25 public auction, or dealing in dogs or cats, or both, either as
8 26 a dealer or a commercial breeder, Except as otherwise provided
8 27 in subsection 2, all of the following apply:

8 28 a. A person who operates an establishment without a
8 29 currently valid license or a certificate of registration is
8 30 guilty of a simple misdemeanor and each day of operation is a
8 31 separate offense.

8 32 b. The failure of any pound, research facility, animal
8 33 shelter, pet shop, boarding kennel, commercial kennel,
8 34 commercial breeder, public auction, or dealer an
8 35 establishment, other than a research facility, to adequately
9 1 house, feed, or water dogs, cats, or vertebrate, or provide
9 2 veterinary care to companion animals in the person's or
9 3 facility's possession or establishment's custody is a simple
9 4 misdemeanor. The companion animal may be seized and impounded
9 5 as provided by rules adopted by the department. The companion
9 6 animal may be sold or destroyed as provided by rules adopted
9 7 by the department pursuant to chapter 17A. The rules shall
9 8 provide for the destruction of the animal by euthanasia.

9 9 c. A dealer who knowingly ships a diseased companion
9 10 animal is guilty of a simple misdemeanor. Each shipment of a
9 11 diseased companion animal in violation of this paragraph is a
9 12 separate offense.

9 13 d. A person shall not sell a companion animal at any
9 14 location other than the location where the animal is
9 15 permanently being housed or a location provided in a license

9 16 or certificate of registration issued to the person under this
9 17 chapter.

9 18 2. A person who violates a provision of this chapter is
9 19 subject to a civil penalty of not more than one thousand
9 20 dollars. For purposes of computing the amount of the civil
9 21 penalty, each day of a continuing violation constitutes a
9 22 separate offense. However, a civil penalty for a violation,
9 23 including a continuing violation, shall not be less than one
9 24 hundred dollars. The state shall be precluded from bringing a
9 25 criminal action against the person if the state has initiated
9 26 a judicial or administrative proceeding under this subsection
9 27 for the imposition of a civil penalty. The department may
9 28 vacate a final decision which imposes a civil penalty upon a
9 29 person as part of a contested case proceeding if the person
9 30 has not paid the civil penalty to the department within thirty
9 31 days after the person has exhausted administrative remedies
9 32 and judicial review sought under chapter 17A. The department
9 33 may petition a court to vacate a final judgment imposing a
9 34 civil penalty upon a person as part of a civil action if the
9 35 person has not paid the civil penalty to the department within
10 1 thirty days after the person has exhausted the right of
10 2 appeal. Moneys collected in civil penalties shall be
10 3 deposited into the general fund of the state.

10 4 3. The animals are subject to seizure and impoundment A
10 5 companion animal which is owned by a person who is in
10 6 violation of this chapter may be seized and impounded and may
10 7 be sold, adopted, or destroyed as provided by rules which
10 8 shall be adopted by the department pursuant to chapter 17A.
10 9 The rules shall provide for the destruction of an a companion
10 10 animal by a humane method, including by euthanasia.

10 11 4. a. The A person's failure to meet the requirements of
10 12 this section is also cause for suspension or revocation or
10 13 suspension of the person's license or registration after
10 14 public hearing as provided in section 162.12.

10 15 b. The commission of an An act declared to be which is an
10 16 unlawful practice under section 714.16 or prohibited under
10 17 chapter 717 or 717B, by a person licensed or registered issued
10 18 a license under this chapter, is cause for the suspension or
10 19 revocation or suspension of the person's license or
10 20 registration certificate as provided in section 162.12.

10 21 5. Dogs, cats, and other vertebrates upon which euthanasia
10 22 is permitted by law A companion animal may be destroyed by a
10 23 person subject to this chapter or a veterinarian licensed
10 24 under chapter 1697. The person must destroy the companion
10 25 animal by a humane method, including euthanasia, as provided
10 26 by rules which shall be adopted by the department pursuant to
10 27 chapter 17A.

10 28 It is unlawful for a dealer to knowingly ship a diseased
10 29 animal. A dealer violating this paragraph is subject to a
10 30 fine not exceeding one hundred dollars. Each diseased animal
10 31 shipped in violation of this paragraph is a separate offense.

10 32 Sec. 14. Section 162.16, Code 2005, is amended by striking
10 33 the section and inserting in lieu thereof the following:

10 34 162.16 RULES.

10 35 The secretary shall adopt rules necessary to carry out the
11 1 provisions of this chapter.

11 2 Sec. 15. Section 162.19, Code 2005, is amended to read as
11 3 follows:

11 4 162.19 ABANDONED ANIMALS DESTROYED.

11 5 1. Whenever any The following provisions shall apply when
11 6 a person transfers possession of a companion animal is left
11 7 with to a veterinarian, or a commercial establishment which is
11 8 a boarding kennel or commercial kennel pursuant to a written
11 9 agreement: and

11 10 a. If the owner or a person authorized by the owner does
11 11 not claim the animal by the agreed date, the animal shall be
11 12 deemed abandoned, and a.

11 13 b. The veterinarian or commercial establishment shall
11 14 deliver a notice of abandonment and its consequences shall be
11 15 sent within seven days by restricted certified mail to the
11 16 last known address of the animal's owner.

11 17 c. For fourteen days after mailing of the notice the owner
11 18 shall have the right to reclaim the animal upon payment of all
11 19 reasonable charges, and after. After the fourteen days
11 20 fourteen-day period, the owner shall be deemed to have waived
11 21 all rights to the abandoned animal.

11 22 d. The veterinarian or commercial establishment may
11 23 surrender the companion animal to a pound licensed pursuant to
11 24 section 162.3 or an animal shelter operating under a
11 25 certificate of registration issued pursuant to section 162.4.
11 26 If despite diligent effort an the veterinarian or commercial

11 27 ~~establishment cannot find a new owner cannot be found~~ for the
11 28 abandoned animal within another seven days, the veterinarian,
11 29 ~~boarding kennel, or commercial kennel establishment~~ may
11 30 ~~humanely~~ destroy the abandoned animal by euthanasia.
11 31 2. Each veterinarian, or a commercial establishment which
11 32 is a boarding kennel or commercial kennel shall warn its
11 33 patrons of the provisions of this section by a conspicuously
11 34 posted notice or by conspicuous type in the agreement, or in a
11 35 written receipt.

12 1 Sec. 16. Section 162.18, Code 2005, is repealed.

12 2 EXPLANATION

12 3 BACKGROUND. This bill amends Code chapter 162 providing
12 4 for the regulation of animals other than livestock in certain
12 5 establishments, including commercial establishments such as
12 6 commercial breeders, commercial kennels, boarding kennels,
12 7 public auctions, dealers, and pet shops. It also regulates
12 8 other noncommercial establishments such as pounds, animal
12 9 shelters, and research facilities.

12 10 CURRENT LAW. A person who operates a commercial
12 11 establishment must be issued a license by the department. The
12 12 amount of the license fee ranges from \$30 for a boarding
12 13 kennel's license to \$100 for a dealer's license. In certain
12 14 cases, a person operating a commercial establishment such as a
12 15 dealer, public auction, commercial breeder, or commercial
12 16 kennel may be issued a federal license in lieu of a state
12 17 license. These persons must still be issued a certificate of
12 18 registration by the department. The fee for such certificates
12 19 is \$20. For persons operating noncommercial establishments,
12 20 including animal shelters, pounds, and research facilities, no
12 21 license is required. However, the person must be issued a
12 22 certificate of registration. A person operating a privately
12 23 owned pound must pay \$15 for the certificate. A fee is not
12 24 required to be paid by a person operating an animal shelter,
12 25 publicly owned pound, or research facility.

12 26 The Code chapter authorizes the department to inspect the
12 27 facilities of an establishment required to be issued a license
12 28 or certificate of registration in order to ensure that the
12 29 facilities meet minimum sanitary and animal welfare
12 30 requirements. The department may revoke the establishment's
12 31 license or certificate of registration. An animal warden may
12 32 seize the neglected animals.

12 33 USE OF TERMS. The bill amends Code section 162.2, which
12 34 provides for definitions, by simplifying the language and
12 35 making the terms consistent (e.g., by using the term "person"
13 1 consistently). It eliminates the term "vertebrate animal",
13 2 which is defined to exclude livestock, and replaces it with
13 3 the term "companion animal" and broadens livestock excluded
13 4 from the scope of the Code chapter. The bill amends
13 5 provisions throughout the Code chapter that list all of the
13 6 different types of persons that it regulates, by referring to
13 7 them as establishments. There are provisions in the Code
13 8 chapter which provide that animals must be destroyed humanely
13 9 by euthanasia. However, the term "euthanasia" is defined to
13 10 mean the humane destruction of an animal. The bill eliminates
13 11 the redundancy.

13 12 COMMERCIAL BREEDERS. There are a number of substantive
13 13 changes made to Code section 162.2. A person is classified as
13 14 a commercial breeder if the person breeds and sells dogs or
13 15 cats. There is one exception: A person who keeps three or
13 16 fewer dogs or cats is not a commercial breeder. The bill
13 17 requires that the dogs or cats must be sexually intact and
13 18 more than one year old.

13 19 REGULATION OF POUNDS. The bill requires that all pounds be
13 20 licensed. The bill strikes language referring to a
13 21 certificate of registration.

13 22 FEES AND LATE RENEWAL FEES. A license or certificate of
13 23 registration expires one year from the date that it is issued
13 24 by the department. The bill expressly provides that the
13 25 amount of a renewal fee is the same as for the original
13 26 issuance of a license or certificate of registration. The
13 27 bill provides that if a renewal application including the
13 28 renewal fee is submitted more than 30 days after the
13 29 expiration of the license or certificate of registration, the
13 30 applicant must also pay a delinquent fee of \$25. The bill
13 31 eliminates a provision (Code section 162.18) stating that the
13 32 fees shall be paid to the treasurer of state, and specifically
13 33 provides that the fees are to be paid into the general fund of
13 34 the state.

13 35 APPLICATION OF THE CODE CHAPTER. Code section 162.11

14 1 provides that a dealer, commercial kennel, or public auction
14 2 which has obtained a valid federal license is not subject to

14 3 state regulation. The department must issue the person a
14 4 certificate of registration which recognizes that the
14 5 establishment is under federal jurisdiction. The bill also
14 6 provides that the department may regulate the person pursuant
14 7 to a written agreement executed by the secretary of
14 8 agriculture and the United States department of agriculture.
14 9 DISCIPLINARY ACTION. Code section 162.12 provides that an
14 10 application for a certificate of registration may be denied or
14 11 an existing certificate of registration may be revoked if the
14 12 facilities are inadequate or an animal is being neglected.
14 13 The bill provides that in order for a person to obtain and
14 14 maintain a certificate of registration, the person must have a
14 15 federal license.

14 16 CRIMINAL OFFENSES. The Code chapter's penalty provisions
14 17 are contained in Code section 162.13. The bill moves a
14 18 provision which prohibits a dealer from shipping a diseased
14 19 companion animal. The bill makes it a criminal offense for a
14 20 commercial establishment to sell a companion animal at a
14 21 location other than the location authorized or approved by the
14 22 secretary. A person who violates a provision of the Code
14 23 chapter is guilty of a simple misdemeanor. A simple
14 24 misdemeanor is punishable by confinement for no more than 30
14 25 days or a fine of at least \$50 but not more than \$500 or by
14 26 both.

14 27 CIVIL PENALTIES. The bill provides that in lieu of
14 28 criminal penalties, a person may be subjected to a civil
14 29 penalty of not more than \$1,000. Each day of a continuing
14 30 violation constitutes a separate offense. A civil penalty for
14 31 a violation, including a continuing violation, cannot be less
14 32 than \$100. The department may vacate a civil penalty and
14 33 pursue criminal charges if the violator does not make timely
14 34 payment.

14 35 LSB 5438DP 81
15 1 da:nh/je/5.1