

House File 2259 - Introduced

HOUSE FILE 2259

BY STAED

A BILL FOR

1 An Act providing for the regulation of animals other than
2 livestock that are maintained by commercial establishments,
3 making penalties applicable, and including effective date
4 provisions.

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

1 Section 1. Section 162.2, subsections 1, 2, 15, and 17, Code
2 2018, are amended by striking the subsections.

3 Sec. 2. Section 162.2, subsections 6 and 26, Code 2018, are
4 amended to read as follows:

5 6. "*Authorization*" means a state license, or certificate
6 of registration, ~~or permit~~ issued or renewed by the department
7 to operate a commercial establishment as provided in section
8 162.2A.

9 26. "*State licensee*" means ~~any of the following:~~

10 ~~a.~~ A a boarding kennel, commercial breeder, commercial
11 kennel, ~~or dealer, pet shop, or public auction~~ to whom a state
12 license is issued by the department pursuant to [section 162.2A](#).

13 ~~b. A commercial breeder, dealer, or public auction to whom~~
14 ~~a state license is issued in lieu of a permit by the department~~
15 ~~pursuant to section 162.2A.~~

16 Sec. 3. Section 162.2A, Code 2018, is amended to read as
17 follows:

18 **162.2A Application, issuance, and renewal of authorizations.**

19 1. The department shall provide for the operation
20 of a commercial establishment by issuing or renewing an
21 authorization, including any of the following:

22 a. A certificate of registration for a pound, animal
23 shelter, or research facility.

24 b. A state license for a boarding kennel, commercial
25 breeder, commercial kennel, ~~or dealer, pet shop, or public~~
26 auction.

27 ~~c. A state license or permit for a commercial breeder,~~
28 ~~dealer, or public auction. A federal licensee must apply for~~
29 ~~and be issued either a permit or a state license in lieu of a~~
30 ~~permit.~~

31 2. A person must be issued a separate ~~state license,~~
32 ~~certificate of registration, or permit~~ authorization for each
33 commercial establishment owned or operated by the person.

34 3. A person must apply for the issuance or renewal of an
35 authorization on forms and according to procedures required by

1 rules adopted by the department. The application shall contain
2 information required by the department, including but not
3 limited to all of the following:

4 a. The person's name.

5 b. The person's principal office or place of business.

6 c. The name, address, and type of commercial establishment
7 covered by the authorization.

8 d. The person's identification number. Notwithstanding
9 chapter 22, the department shall keep the person's tax
10 identification number confidential except for purposes of tax
11 administration by the department of revenue, including as
12 provided in [section 421.18](#).

13 4. The authorization expires on an annual basis as
14 provided by the department, and must be renewed by the
15 commercial establishment on an annual basis on or before the
16 authorization's expiration date.

17 5. ~~a. A commercial establishment applying for the issuance~~
18 ~~or renewal of a permit shall provide the department with proof~~
19 ~~that the person is a federal licensee. Before approving~~
20 an application to issue a person a license as a commercial
21 breeder, dealer, or pet shop, the department shall inspect
22 the premises of the applicant's commercial establishment,
23 pursuant to section 162.10B. The department shall disapprove
24 the application if it determines that if the application were
25 approved, the commercial establishment would not comply with
26 the standard of care required under section 162.10A, including
27 any rules adopted pursuant to that section. If the department
28 disapproves the application, the person may submit a new
29 application for the same or different license described in
30 this subsection. However, the department shall not accept an
31 application that is submitted earlier than six months after the
32 date that the department disapproved the previous application.
33 The department shall not approve an application submitted by
34 a person who has applied for any license described in this
35 subsection and has been denied a license more than twice.

1 ~~b. The department shall not require that it must enter onto~~
2 ~~the premises of a commercial establishment in order to issue a~~
3 ~~permit. The department shall not require that it must enter~~
4 ~~onto the premises of a commercial establishment in order to~~
5 ~~renew a permit, unless it has reasonable cause to monitor the~~
6 ~~commercial establishment as provided in [section 162.10C](#).~~

7 Sec. 4. Section 162.2B, subsection 1, Code 2018, is amended
8 to read as follows:

9 1. A commercial establishment shall pay authorization fees
10 to the department for the issuance or renewal of a certificate
11 of registration, or state license, ~~or permit~~.

12 a. For the issuance or renewal of a certificate of
13 registration, seventy-five dollars.

14 b. For the issuance or renewal of a state license,
15 ~~or permit~~, one hundred seventy-five dollars. However, a
16 commercial breeder who owns, keeps, breeds, or transports
17 a greyhound dog for pari-mutuel wagering at a racetrack as
18 provided in [chapter 99D](#) shall pay a different fee for the
19 issuance or renewal of a state license as provided in rules
20 adopted by the department.

21 Sec. 5. Section 162.7, Code 2018, is amended to read as
22 follows:

23 **162.7 Operation of a dealer — state license ~~or permit~~.**

24 A dealer shall only operate pursuant to a state license,
25 ~~or a permit~~, issued or renewed by the department as provided
26 in [section 162.2A](#). A dealer ~~who is a state licensee~~ shall
27 maintain records as required by the department in order for the
28 department to ensure compliance with the provisions of this
29 chapter. ~~A dealer who is a permittee may but is not required~~
30 ~~to maintain records.~~ A dealer shall not purchase a dog or cat
31 from a commercial establishment that does not have operate
32 pursuant to a valid authorization issued or renewed under this
33 chapter or a similar authorization issued or renewed by another
34 state.

35 Sec. 6. Section 162.8, Code 2018, is amended to read as

1 follows:

2 **162.8 Operation of a commercial breeder — state license or**
3 **permit.**

4 A commercial breeder shall only operate pursuant to a state
5 license, ~~or a permit,~~ issued or renewed by the department
6 as provided in [section 162.2A](#). A commercial breeder ~~who is~~
7 ~~a state licensee~~ shall maintain records as required by the
8 department in order for the department to ensure the commercial
9 breeder's compliance with the provisions of [this chapter](#). A
10 ~~commercial breeder who is a permittee may but is not required~~
11 ~~to maintain records.~~ A commercial breeder shall not purchase a
12 dog or cat from a commercial establishment that does not have
13 operate pursuant to a valid authorization issued or renewed
14 under [this chapter](#) or a similar authorization issued or renewed
15 by another state.

16 Sec. 7. Section 162.9A, Code 2018, is amended to read as
17 follows:

18 **162.9A Operation of a public auction — state license or**
19 **permit.**

20 A public auction shall only operate pursuant to a state
21 license, ~~or a permit,~~ issued or renewed by the department
22 as provided in [section 162.2A](#). A public auction ~~which is~~
23 ~~a state licensee~~ shall maintain records as required by the
24 department in order for the department to ensure the public
25 auction's compliance with the provisions of [this chapter](#). A
26 ~~public auction which is a permittee may but is not required to~~
27 ~~maintain records.~~ A public auction shall not purchase a dog or
28 cat from a commercial establishment that does not have a valid
29 authorization issued or renewed under [this chapter](#) or a similar
30 authorization issued or renewed by another state.

31 Sec. 8. Section 162.10A, Code 2018, is amended to read as
32 follows:

33 **162.10A Commercial establishments — standard of care.**

34 1. a. A commercial establishment shall provide for a
35 standard of care that ensures that an animal in its possession

1 or under its control is not lacking any of the following:

2 (1) Adequate feed, ~~adequate water, housing facilities,~~
3 ~~sanitary control, or grooming practices, if such lack causes~~
4 ~~adverse health or suffering~~ that is of a quantity and quality
5 suitable for the species, age, and condition of the animal to
6 maintain a reasonable level of nutrition. The food must be
7 provided to the animal at least once each twenty-four hours,
8 unless otherwise specified by a licensed veterinarian in
9 writing.

10 (2) Continuous access to a supply of clean, fresh,
11 potable water, that is not frozen, and is provided in a
12 sanitary manner, except as otherwise specified by a licensed
13 veterinarian in writing.

14 ~~(2)~~ (3) Veterinary care.

15 b. A commercial establishment, other than a research
16 facility or pet shop, shall provide for the standard of care
17 for dogs and cats in its possession or under its control, and a
18 research facility or pet shop shall provide for the standard
19 of care for vertebrate animals in its possession or under its
20 control.

21 2. a. Except as provided in paragraph "b", ~~or "c",~~ a
22 commercial establishment shall comply with rules that the
23 department adopts to ~~implement subsection 1~~ administer and
24 enforce this section. ~~A commercial establishment shall be~~
25 ~~regulated under this paragraph "a" unless the person is a state~~
26 ~~licensee as provided in paragraph "b" or a permittee as provided~~
27 ~~in paragraph "c".~~

28 b. ~~A state licensee who is a~~ commercial breeder owning,
29 breeding, transporting, or keeping a greyhound dog for
30 pari-mutuel wagering at a racetrack as provided in [chapter 99D](#)
31 may be required to comply with different rules adopted by the
32 department.

33 c. ~~A permittee is not required to comply with rules that the~~
34 ~~department adopts to implement a standard of care as provided~~
35 ~~in subsection 1 for state licensees and registrants. The~~

1 ~~department may adopt rules regulating a standard of care for~~
2 ~~a permittee, so long as the rules are not more restrictive~~
3 ~~than required for a permittee under the Animal Welfare Act.~~
4 ~~However, the department may adopt prescriptive rules relating~~
5 ~~to the standard of care. Regardless of whether the department~~
6 ~~adopts such rules, a permittee meets the standard of care~~
7 ~~required in subsection 1 if it voluntarily complies with rules~~
8 ~~applicable to state licensees or registrants. A finding by~~
9 ~~the United States department of agriculture that a permittee~~
10 ~~complies with the Animal Welfare Act is not conclusive when~~
11 ~~determining that the permittee provides a standard of care~~
12 ~~required in subsection 1.~~

13 3. A commercial breeder shall ensure that a dog or cat is
14 comfortably housed in a primary enclosure as follows:

15 a. The floor must be constructed in a manner that satisfies
16 all of the following requirements:

17 (1) Prevents the dog's or cat's toes, feet, or legs from
18 being injured.

19 (2) Has an even surface.

20 (3) Uses materials that do not sag.

21 (4) Does not use perforated materials, unless any portion
22 of the dog's or cat's feet or toes are prevented from passing
23 through the surface.

24 b. The floor must not be constructed with any of the
25 following:

26 (1) Wire strand.

27 (2) Slats that are less than one and one-half inches in
28 width.

29 c. (1) A primary enclosure housing dogs shall be subject to
30 special requirements as follows:

31 (a) For each dog that measures less than twenty-five inches
32 in length, the dog's primary enclosure must include at least
33 twelve square feet of indoor floor space.

34 (b) For each dog that measures twenty-five inches or more
35 but less than thirty-five inches in length, the dog's primary

1 enclosure must include at least twenty square feet of indoor
2 floor space.

3 (c) For each dog that measures more than thirty-five inches
4 in length, the dog's primary enclosure must include at least
5 thirty square feet of indoor floor space.

6 (2) A dog shall be measured from the tip of its nose to the
7 base of its tail.

8 d. A commercial breeder shall not permanently tether a dog.
9 A commercial breeder shall not temporarily tether a dog, unless
10 it is done pursuant to a written waiver issued by the state
11 veterinarian that specifies the conditions for tethering.

12 4. A commercial breeder shall ensure that a dog or cat
13 housed in an environment complies with the following:

14 a. For an indoor environment, the ambient temperature,
15 during any four consecutive hours, must not be less than
16 forty-five degrees Fahrenheit and not more than eighty-five
17 degrees Fahrenheit. The commercial breeder must furnish dry
18 bedding, solid resting boards, or other methods of conserving
19 the dog's or cat's body heat during any period when the
20 temperature is less than forty-five degrees Fahrenheit.

21 b. For an outdoor environment, the commercial breeder shall
22 make one or more places of refuge available that meets the
23 following requirements:

24 (1) (a) It must include one or more sheltered structures
25 capable of allowing each dog or cat to sit, stand, lie in
26 a normal manner, and to turn about freely. The sheltered
27 structure must be constructed with a roof, four walls, and a
28 floor. The sheltered structure must have a wind break and rain
29 break at the entrance. The sheltered structure must provide
30 each dog or cat with adequate protection from normal outdoor
31 conditions, including cold, heat, the sun, wind, rain, and
32 snow.

33 (b) It must be furnished with clean, dry bedding material if
34 the ambient temperature is less than fifty degrees Fahrenheit.
35 A commercial breeder shall furnish the sheltered structure

1 with additional clean, dry bedding during any period when the
2 temperature is lower than thirty-five degrees Fahrenheit.

3 (2) It must include one or more natural areas or constructed
4 areas so that each dog or cat may be protected from the sun
5 or wind. A natural area may include one or more trees with
6 adequate foliage. A constructed area may include one or more
7 awnings, suspended shade cloths, or heavy duty tarps. A
8 constructed area must be maintained in good repair and firmly
9 secured to a frame.

10 c. (1) Notwithstanding paragraphs "a" and "b", an at-risk
11 dog or cat must be maintained in an indoor environment having
12 an ambient temperature that is not less than fifty degrees
13 Fahrenheit. A dog or cat is at risk if it is any of the
14 following:

15 (a) Not acclimated to temperatures lower than fifty
16 degrees.

17 (b) Belongs to a breed that cannot tolerate temperatures
18 lower than fifty degrees without stress or discomfort.

19 (c) Is sick, infirm, aged, or immature.

20 (2) When the at-risk status of a dog or cat as under
21 subparagraph (1) cannot be immediately determined, it is
22 presumed that the dog or cat is at risk until the status is
23 determined.

24 (3) This paragraph "c" does not apply to the extent that a
25 licensed veterinarian provides in writing for the alternative
26 care of the at-risk dogs and cats.

27 5. A commercial breeder shall ensure that a dog or cat
28 is provided at least one personal examination by a licensed
29 veterinarian during each twelve-month period, including but
30 not limited to a comprehensive physical examination, dental
31 assessment, pain assessment, and body condition scoring.

32 3. 6. A commercial establishment fails to provide for a
33 standard of care as provided in ~~subsection 1~~ this section if
34 the commercial establishment commits abuse as described in
35 section 717B.2, neglect as described in [section 717B.3](#), or

1 torture as provided in [section 717B.3A](#).

2 Sec. 9. Section 162.10B, Code 2018, is amended to read as
3 follows:

4 **162.10B Commercial establishments — inspecting state**
5 **licensees and registrants.**

6 1. The department may inspect the commercial establishment
7 of a registrant or state licensee by entering onto its
8 business premises at any time during normal working hours. The
9 department may inspect records required to be maintained by the
10 state licensee or registrant as provided in [this chapter](#). If
11 the owner or person in charge of the commercial establishment
12 refuses admittance, the department may obtain an administrative
13 search warrant issued under [section 808.14](#).

14 2. In addition to the inspection required under section
15 162.2A, the department shall inspect the commercial
16 establishment of a commercial breeder, dealer, or pet shop
17 at least once annually, and upon complaint. The department
18 shall prepare and keep a record of an inspection report. The
19 inspection report shall include detailed findings, including
20 explanation of any noncompliance with the standard of care in
21 section 162.10A or any rules adopted pursuant to this chapter,
22 and any photographs taken. The department shall maintain such
23 inspection reports for three years.

24 3. If the commercial establishment holds a federal license,
25 the department shall report any findings resulting in an
26 enforcement action under section 162.10D to the United States
27 department of agriculture.

28 Sec. 10. Section 162.11, subsection 1, Code 2018, is amended
29 by striking the subsection.

30 Sec. 11. REPEAL. Section 162.10C, Code 2018, is repealed.

31 Sec. 12. EFFECTIVE UPON ENACTMENT. Except as otherwise
32 provided in this Act, this Act takes effect upon enactment.

33 Sec. 13. EFFECTIVE DATE. Section 162.10A, subsections 3
34 through 5, as enacted in this Act, take effect January 1, 2019.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill amends provisions in Code chapter 162 that
4 authorize the department of agriculture and land stewardship
5 (DALs) to regulate certain animals (excluding agricultural
6 animals) kept in commercial establishments. Generally,
7 commercial establishments must obtain a license or certificate
8 of registration.

9 STATE LICENSES. The bill addresses several types of
10 commercial establishments that have obtained a federal license
11 and a state permit in lieu of a state license, including a
12 public auction (Code section 162.9A), dealer (Code section
13 162.7), and commercial breeder (Code section 162.8). Under the
14 bill, a federally licensed commercial establishment must obtain
15 a state license. The bill also provides that before approving
16 an application for a state license as a commercial breeder,
17 dealer, or pet shop, DALs must inspect the premises of the
18 applicant's commercial establishment. If the DALs disapproves
19 an application more than once, it is prohibited from accepting
20 a new application.

21 STANDARD OF CARE. The bill provides new standard of
22 care requirements for a commercial breeder of dogs or cats,
23 including the construction of their primary enclosures, and
24 whether they are housed in an indoor or outdoor environment.
25 For an indoor environment, the bill provides ranges for ambient
26 air temperature, and for an outdoor environment, it requires
27 the use of sheltered structures constructed according to a
28 number of specifications and natural or constructed areas where
29 the animal is protected from the sun or wind. It also requires
30 that the commercial breeder ensure that each dog or cat is
31 provided an annual examination by a veterinarian.

32 INSPECTIONS. The bill requires DALs to inspect the
33 commercial establishment of a commercial breeder, dealer, or
34 pet shop at least once annually, and upon complaint. The
35 inspection report shall include detailed findings, including

1 explanation of any noncompliance with the standard of care in
2 Code section 162.10A or any rules adopted pursuant to this
3 Code chapter, and any photographs taken. The department
4 shall maintain such inspection reports for three years. The
5 bill also requires that if the commercial establishment holds
6 a federal license, DALs must submit any findings resulting
7 in an enforcement action to the United States department of
8 agriculture.

9 APPLICABLE PENALTIES. DALs is authorized to establish,
10 impose, and assess civil penalties for violations of the Code
11 chapter's provisions. The civil penalty is up to \$500 per day
12 of a violation. For a housing violation, the civil penalty is
13 assessed for the first day, but not for the subsequent 15 days
14 to allow for correction according to a departmental plan. For
15 an unauthorized commercial establishment, the civil penalty is
16 up to \$1,000 per day of a violation, without a grace period for
17 a housing violation (Code section 162.12A).

18 CRIMINAL PENALTIES. A person who violates a standard of care
19 is guilty of a simple misdemeanor. A person who operates a
20 commercial establishment without obtaining an authorization is
21 guilty of a simple misdemeanor (Code section 162.13). A simple
22 misdemeanor is punishable by confinement for no more than 30
23 days or a fine of at least \$65 but not more than \$625 or by
24 both.