

House File 2315 - Introduced

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BY GASKILL

A BILL FOR

1 An Act relating to animals, including dogs, that are subject
2 to certain health and safety regulations, including
3 by providing for rabies control, and the confiscation,
4 impoundment, and disposition of such animals, providing a
5 criminal penalty, and making penalties applicable.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 351.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Department" means the department of agriculture and land
5 stewardship.

6 2. "DNA" means deoxyribonucleic acid.

7 3. "Local board of health" means the same as defined in
8 section 137.102.

9 4. "Police service dog" means a dog specially trained
10 to assist a peace officer as defined in section 801.4 or a
11 correctional officer in the performance of the officer's
12 duties.

13 5. "Qualified laboratory" means a laboratory accredited
14 by the American association of veterinary laboratory
15 diagnosticians, the national veterinary services laboratories
16 located in Ames, Iowa, or a diagnostic laboratory recognized
17 by the department.

18 6. "Veterinarian" means a person who is licensed to practice
19 veterinary medicine in this state under chapter 169.

20 Sec. 2. Section 351.25, Code 2018, is amended to read as
21 follows:

22 351.25 Dog as property.

23 All dogs under A dog shall be deemed property only if the dog
24 is any of the following:

25 1. Less than six months of age, and all dogs over said
26 age and wearing a collar with a valid rabies vaccination tag
27 attached to the collar, shall be deemed property. Dogs not
28 provided with a rabies vaccination tag shall not be deemed
29 property.

30 2. Owned by a person as evidenced by proof of identification
31 which shall be limited to any of the following:

32 a. A rabies prevention credential as provided in section
33 351.35.

34 b. A tattoo imprinted on the dog's skin that may be visually
35 observed.

1 c. A device implanted under the dog's skin that stores
2 information in an electronic format accessible by a computer.

3 d. A DNA profile that describes the dog's unique genetic
4 identity when an analysis is performed comparing a DNA sample
5 with a record stored in a recognized database.

6 Sec. 3. Section 351.26, Code 2018, is amended to read as
7 follows:

8 **351.26 Right and duty to kill ~~untagged~~ dog.**

9 1. It shall be lawful for any person, and the duty of all
10 peace officers within their respective jurisdictions, unless
11 such jurisdiction shall have otherwise provided for the seizure
12 confiscation and impoundment of dogs, to kill any a dog for
13 which a rabies vaccination tag is required, when the dog is not
14 wearing a collar with rabies vaccination tag attached if any
15 of the following apply:

16 a. The dog is pursuing, threatening, attempting to injure,
17 or injuring an individual.

18 b. The dog is pursuing, injuring, or killing a domestic
19 animal or domestic fowl not owned by the owner of the dog.

20 2. This subsection does not apply to any of the following:

21 a. A police service dog while the police service dog is on
22 duty or performing an official function.

23 b. A dog taking an action to protect the property, life, or
24 safety of the dog's owner or an immediate family member of the
25 owner.

26 c. A dog engaged in performing a task for which the dog
27 has been trained or is being trained, so long as the task is
28 otherwise lawful.

29 Sec. 4. Section 351.33, Code 2018, is amended to read as
30 follows:

31 **351.33 Rabies vaccination prevention — prohibition.**

32 1. Every owner of a dog shall obtain a rabies vaccination
33 for such animal. It shall be unlawful for any A person
34 to shall not own or have possess a dog in the person's
35 possession, six months of age or over older, which has not been

1 ~~vaccinated against~~ unless the person obtains rabies vaccination
2 credentials for the dog pursuant to section 351.35. Dogs

3 2. Subsection 1 does not apply to a dog kept in kennels and
4 a kennel if such dog is not allowed to run at large shall not be
5 subject to these vaccination requirements.

6 Sec. 5. Section 351.35, Code 2018, is amended to read as
7 follows:

8 351.35 How and when Rabies prevention — requirements and
9 credentials.

10 1. The A rabies vaccination required by ~~section 351.33,~~
11 including an initial vaccination and any revaccination, shall
12 be an injection of antirabies vaccine approved by the state
13 department of agriculture and land stewardship, and the. The
14 frequency of administering a revaccination necessary for
15 approved vaccinations shall be as established by such the
16 department. The vaccine shall be administered by a licensed
17 veterinarian and shall be given as administered in a manner
18 approved by the state department of agriculture and land
19 stewardship. The Upon administering the vaccination, the
20 veterinarian shall issue a tag with the following rabies
21 prevention credentials to the dog's owner:

22 a. A rabies vaccination certificate of vaccination, and
23 such.

24 b. A rabies vaccination tag. The tag shall at all times be
25 attached to the a collar of which shall worn by the dog.

26 2. A veterinarian may determine that a dog does not require
27 a vaccination based on an evaluation of a report prepared
28 by a qualified laboratory that performed a rabies antibody
29 titer test using a sample of the dog's blood serum. If the
30 veterinarian makes such determination, the veterinarian shall
31 issue the following rabies prevention credentials to the dog's
32 owner:

33 a. A rabies antibody titer test certificate.

34 b. A rabies antibody titer test tag. The tag shall at all
35 times be attached to a collar which shall be worn by the dog.

1 Sec. 6. Section 351.36, Code 2018, is amended to read as
2 follows:

3 **351.36 Enforcement.**

4 ~~Local~~ A local board of health and law enforcement officials
5 shall enforce the provisions of sections 351.33 to 351.43
6 relating to vaccination and impoundment of dogs. Such public
7 officials shall not be responsible for any accident or disease
8 of a dog resulting from the enforcement of the provisions of
9 said sections.

10 Sec. 7. Section 351.37, Code 2018, is amended to read as
11 follows:

12 **351.37 Dogs running at large — ~~impoundment — disposition~~**
13 **confiscation, impoundment, and disposition.**

14 1. A dog shall be ~~apprehended~~ confiscated and impounded
15 by a local board of health or law enforcement official if the
16 dog is running at large and ~~the dog is not wearing a valid~~
17 ~~rabies vaccination tag or a rabies vaccination certificate is~~
18 ~~not presented to the local board of health or law enforcement~~
19 ~~official~~ the dog is not immediately identifiable as property of
20 an owner pursuant to section 351.25.

21 2. a. The local board of health or law enforcement official
22 shall provide written notice to the dog's owner if the local
23 board of health or law enforcement official can reasonably
24 determine the owner's name and current address ~~by accessing a~~
25 ~~tag or other device that is on or a part of the dog.~~ The notice
26 shall be sent to the dog's owner within two days after the dog
27 has been impounded. The notice shall provide that if the owner
28 or the owner's agent does not redeem the dog within seven days
29 from the date that the notice is delivered, the dog may be
30 ~~humanely destroyed or otherwise disposed of in accordance with~~
31 ~~law~~ subject to disposition as provided in subsection 4.

32 b. For purposes of ~~this section~~ paragraph "a", a notice is
33 delivered when the local board of health or law enforcement
34 official mails the notice which may be by regular mail.

35 3. a. An owner may redeem a an impounded dog ~~by having it~~

1 ~~immediately vaccinated and by~~ paying the cost of impoundment.

2 b. If an owner cannot furnish rabies prevention credentials,
3 the owner must immediately obtain such credentials to furnish
4 to the local board of health or law enforcement official.

5 ~~3.~~ 4. If the owner of the impounded dog fails to redeem
6 the dog within seven days from the date of the delivery of the
7 notice to the dog's owner as provided in this section, the
8 dog may be disposed of in accordance with law. If the dog
9 is destroyed, it must be destroyed by euthanasia as defined
10 in section 162.2. is subject to disposition by any of the
11 following methods:

12 a. Transfer to another person, including by sale or adoption
13 to a person or by relinquishing the dog to an animal shelter
14 as provided in section 162.20. All property rights held by
15 the person who owned the dog prior to impoundment shall be
16 extinguished. If the dog is not to be destroyed, the local
17 board of health or law enforcement official shall obtain a
18 rabies prevention credential for the dog as provided in section
19 351.35. However, in lieu of obtaining a rabies prevention
20 credential for the dog, the local board of health may require
21 a person to whom the dog is being transferred to obtain the
22 rabies prevention credential.

23 b. The humane destruction of the dog by euthanasia as
24 defined in section 162.2.

25 Sec. 8. Section 351.38, Code 2018, is amended to read as
26 follows:

27 **351.38 Owner's duty.**

28 It shall be the duty of the owner of any dog, cat or other
29 animal which has bitten or attacked a person or any person
30 having knowledge of such bite or attack to report this act to a
31 local board of health or law enforcement official. It shall be
32 the duty of physicians and veterinarians to report to the local
33 board of health the existence of any animal known or suspected
34 to be suffering from rabies.

35 Sec. 9. Section 351.39, Code 2018, is amended to read as

1 follows:

2 **351.39 Confinement, confiscation, and impoundment.**

3 1. If a local board of health receives information that
4 an animal has bitten a person or that ~~a dog or~~ an animal is
5 suspected of having rabies, the local board of health shall
6 order the animal's owner to confine such animal in the manner
7 it directs. If the owner fails to confine such animal in the
8 manner directed, the animal shall be ~~apprehended~~ confiscated
9 and impounded by ~~such~~ the local board of health, and after
10 ten days the local board of health may humanely destroy the
11 animal by euthanasia as defined in section 162.2 only if it is
12 determined that the animal has been infected with the rabies
13 virus. The owner of a dog or the agency of the dog's owner may
14 redeem the dog in the same manner provided in section 351.37,
15 if it is determined that the dog does not present a threat due
16 to a rabies virus infection. If ~~such~~ an animal is returned to
17 its owner, the owner shall pay the cost of impoundment. ~~This~~
18 ~~section~~

19 2. Subsection 1 shall not apply if to an animal, a police
20 service dog, or a horse used by a law enforcement agency and,
21 if the animal is acting in the performance of its duties has
22 ~~bitten a person.~~

23 **Sec. 10. NEW SECTION. 351.45 Confiscation — court order.**

24 1. A local board of health or law enforcement official
25 shall not confiscate a dog under this chapter without obtaining
26 a court order. The court shall determine if a dog should be
27 impounded and placed in the custody of the local board of
28 health or law enforcement official. The dog's disposition
29 shall be determined by court order after a hearing to determine
30 the dog's ownership. The hearing may be held as part of a
31 dispositional proceeding conducted pursuant to section 717B.4.

32 2. If a dog is ordered to be impounded under subsection 1,
33 all of the following apply:

34 a. The dog shall not be placed in the custody of a private
35 party.

1 b. The dog shall not be sterilized, including by the use of
2 any procedure described in section 162.20.

3 c. The dog shall be provided with a standard of care that
4 takes into account the breed, age, and health condition of the
5 dog. The dog must be provided with a standard of care that at
6 least meets the requirements of section 162.10A.

7 3. This section shall not apply to a dog that is not
8 property as provided in section 351.25.

9 Sec. 11. NEW SECTION. 351.46 Filing a false report —
10 criminal penalty.

11 1. A person commits the offense of filing a false report
12 by providing incorrect or incomplete information to a local
13 board of health or law enforcement official, knowing that the
14 information is incorrect or incomplete and that the result
15 of providing such information will likely result in the
16 confiscation of a dog that is property under this chapter.

17 2. A person who commits the offense of filing a false
18 report is guilty of a simple misdemeanor. A person convicted
19 of the offense is subject to paying for costs associated with
20 impounding the dog. A county or city that has the duty to
21 prosecute the offense may recover costs of the prosecution from
22 a defendant who has been convicted of the offense.

23 Sec. 12. REPEAL. Section 351.27, Code 2018, is repealed.

24 EXPLANATION

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

27 GENERAL. This bill amends provisions in Code chapter
28 351 which provide for the prevention of rabies in dogs by a
29 licensed veterinarian (veterinarian) and the confiscation,
30 impoundment, and disposition of certain animals, including
31 dogs, by a local board of health or law enforcement official
32 (local authority) in part according to rules adopted by the
33 department of agriculture and land stewardship (department).

34 DOGS AS PROPERTY. The bill provides that a dog is considered
35 property according to several forms of proof of ownership,

1 including a rabies prevention credential as described in the
2 bill, a tattoo on the dog's skin, a device implanted under the
3 dog's skin, or a DNA profile on record. Under current law, the
4 dog's status as property is determined by its age and whether
5 it is wearing a collar attached with a rabies vaccination tag
6 (Code section 351.25).

7 RIGHT TO KILL DOG. The bill provides that a person may kill
8 a dog regardless of whether it is wearing a collar with an
9 attached rabies tag, if the dog is endangering an individual
10 or domestic animal or fowl. The provision does not apply to
11 a police service dog; a dog protecting the property, life,
12 or safety of the dog's owner or immediate family; or the dog
13 is engaged in or being trained to be engaged in performing a
14 lawful task. Under current law, a person has a right to kill
15 a dog not wearing such collar (Code section 351.26); or a dog
16 wearing the collar if it is harassing a domestic animal or
17 fowl or attacking or attempting to bite a person (Code section
18 351.27).

19 RABIES PREVENTION. The bill requires the owner of a dog
20 to obtain evidence (credentials) that the dog is prevented
21 from contracting the rabies virus. This includes a rabies
22 vaccination certificate and rabies vaccination tag to be
23 worn on the dog's collar. Otherwise, the credentials are a
24 rabies antibody titer test certificate and a rabies antibody
25 titer test tag that also must be worn on the dog's collar.
26 Under current law, a dog that is over six months old must be
27 vaccinated and revaccinated according to rules adopted by the
28 department (Code sections 351.33 and 351.35).

29 CONFISCATION, IMPOUNDMENT, AND DISPOSITION. The bill
30 provides that a dog's owner may redeem a dog confiscated and
31 impounded by a local authority if the owner furnishes rabies
32 prevention credentials. The local authority must arrange for
33 the disposition of an unredeemed dog by sale, transfer, or
34 relinquishment of title to an animal shelter. If an animal has
35 been confiscated based on a suspected rabies infection, the

1 local authority must test the animal. An uninfected dog must
2 be returned its owner. Under current law, a local authority
3 must confiscate a dog and either return it to its owner or
4 humanely destroy it after 10 days (Code section 351.39).

5 COURT ORDER. The bill prohibits a local authority from
6 confiscating, impounding, or disposing of a dog that is
7 considered property without obtaining a court order. The dog
8 cannot be placed in the custody of a private person, cannot be
9 sterilized, and must be provided with an adequate standard of
10 care.

11 CRIMINAL OFFENSE — FALSE REPORT. The bill creates a
12 new criminal offense referred to as "false report" which
13 is committed by a person providing incorrect or incomplete
14 information to a local board of health or law enforcement
15 official, knowing that the information will likely result in
16 the confiscation of a dog that is property. A person who
17 commits the offense is guilty of a simple misdemeanor. The
18 person may also be ordered to pay for costs associated with the
19 prosecution.

20 APPLICABLE CRIMINAL PENALTY. A person who is in violation
21 of a provision in the Code chapter is guilty of a simple
22 misdemeanor (Code section 351.43). A simple misdemeanor is
23 punishable by confinement for no more than 30 days or a fine of
24 at least \$65 but not more than \$625 or by both.