

Senate File 2239 - Introduced

SENATE FILE 2239

BY GUTH

A BILL FOR

1 An Act relating to false allegations regarding the mistreatment
2 of animals, by providing for certain complaints, and
3 providing penalties.

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

1 Section 1. NEW SECTION. 162.21 Investigations and
2 disciplinary actions — false allegations.

3 1. The department shall not conduct an investigation or
4 bring an administrative action for a violation of section
5 162.10A based on a false allegation against a commercial
6 establishment issued or renewed an authorization. An
7 allegation is conclusively presumed to be false if it is based
8 on any of the following:

9 a. Evidence obtained by a person who enters onto the
10 property of a commercial establishment due to any of the
11 following:

12 (1) Trespass as defined in section 716.7.

13 (2) Deception as described in section 702.9, subsection 1
14 or 2.

15 b. A statement that is hearsay or any statement other than
16 direct observation by a credible witness.

17 2. In order for the department to conduct an inspection
18 based on a complaint alleging a violation of section 162.10A,
19 all of the following must apply:

20 a. The complainant must file a written statement with the
21 department. The written statement shall be in the form of an
22 affidavit as provided by the department. The written statement
23 shall comply with all of the following:

24 (1) It must be signed and dated by the complainant and the
25 department employee taking the complaint, and notarized as
26 provided in chapter 9B.

27 (2) It must state the name of the commercial establishment
28 alleged to have committed the violation, the name of the
29 owner of the animal, the location where the alleged violation
30 occurred, a description of the alleged violation, and the name
31 and contact information of any other witness to the alleged
32 violation.

33 b. Notwithstanding section 22.7, the department delivers
34 a copy of the statement described in paragraph "a" to the
35 commercial establishment subject to administrative action. The

1 statement shall be sent by certified mail within twenty-four
2 hours after the department receives the complaint. The
3 statement shall not contain redactions.

4 3. A commercial establishment subject to administrative
5 action under this chapter shall have a cause of action against
6 the person making the complaint if the commercial establishment
7 subject to administrative action is not found to be in
8 violation of section 162.10A, or a court reverses the finding
9 of such violation. The commercial establishment subject to
10 administrative action shall be awarded damages for any economic
11 loss, as determined by a court, resulting from the complaint.

12 4. The commercial establishment subject to administrative
13 action shall have a cause of action based on the making of
14 a false affidavit, slander, libel, or harassment against
15 any person making a false allegation against the commercial
16 establishment subject to administrative action if a violation
17 is not found or a violation is found but the decision is
18 reversed.

19 5. A person is guilty of false allegation if the person
20 makes a complaint that is the basis for an administrative
21 action against a commercial establishment issued or renewed an
22 authorization under this chapter, and a violation of section
23 162.10A is not found or a violation is found but the decision
24 is reversed. A person guilty of false allegation shall be
25 subject to one of the following:

26 a. Except as otherwise provided in this subsection, a fine
27 of not more than one hundred dollars.

28 b. For a second offense committed within two years of a
29 prior conviction for the same offense, a simple misdemeanor.
30 The sentencing order shall also require that the person perform
31 not less than fifty hours and not more than one hundred hours
32 of community service.

33 c. For a third or subsequent offense committed within two
34 years of a prior conviction for the same offense, a serious
35 misdemeanor. The sentencing order shall also require that the

1 person perform not less than one hundred hours and not more
2 than one hundred fifty hours of community service.

3 Sec. 2. NEW SECTION. 717.7 Investigations and prosecutions
4 — false allegations.

5 1. As used in this section, unless the context otherwise
6 requires:

7 a. "Local law enforcement office" means a city police force
8 or county sheriff's office.

9 b. "Offense" means livestock abuse as provided in section
10 717.1A or livestock neglect as provided in section 717.2.

11 2. A duly sworn law enforcement officer shall not conduct an
12 investigation of the commission of an offense based on a false
13 allegation. An allegation is conclusively presumed to be false
14 if it is based on any of the following:

15 a. Evidence obtained by a person who enters onto the
16 property where the livestock is maintained due to any of the
17 following:

18 (1) Trespass as defined in section 716.7.

19 (2) Deception as described in section 702.9, subsection 1
20 or 2.

21 b. A statement that is hearsay or any statement other than
22 direct observation by a credible witness.

23 3. In order for a duly sworn law enforcement officer to
24 conduct an investigation based on a complaint alleging an
25 offense, all of the following must apply:

26 a. The complainant must file a written statement with a
27 local law enforcement office. The written statement shall
28 be in the form of an affidavit as provided by the local law
29 enforcement office. The written statement shall comply with
30 all of the following:

31 (1) It must be signed and dated by the complainant and the
32 law enforcement officer taking the complaint, and notarized as
33 provided in chapter 9B.

34 (2) It must state the name of the owner of the livestock,
35 the location where the alleged offense occurred, a description

1 of the alleged offense, and the name and contact information of
2 any other witness to the alleged offense.

3 *b.* Notwithstanding section 22.7, the local law enforcement
4 office delivers a copy of the statement described in
5 paragraph "a" to any person who may be investigated due to
6 the complaint. The statement shall be sent by certified mail
7 within twenty-four hours after the local law enforcement office
8 receives the complaint. The statement shall not contain
9 redactions.

10 4. A person charged with committing an offense under this
11 section shall have a cause of action against the person making
12 the complaint if the charge is dismissed, the person charged
13 is acquitted, or the person charged is convicted and the
14 conviction is reversed. The person charged shall be awarded
15 damages for any economic loss, as determined by a court,
16 resulting from the complaint.

17 5. A person charged with committing an offense under this
18 section shall have a cause of action based on the making of
19 a false affidavit, slander, libel, or harassment against any
20 person who asserted a false allegation against the person
21 charged if the charge is dismissed, the person charged
22 is acquitted, or the person charged is convicted and the
23 conviction is reversed.

24 6. A person is guilty of false allegation if the person
25 makes a complaint that is the basis for a criminal charge for
26 an offense and no charge is filed, the charge is dismissed, the
27 person charged is acquitted, or the person charged is convicted
28 and the conviction is reversed. A person guilty of false
29 allegation shall be subject to one of the following:

30 *a.* Except as otherwise provided in this subsection, a fine
31 of not more than one hundred dollars.

32 *b.* For a second offense committed within two years of a
33 prior conviction for the same offense, a simple misdemeanor.
34 The sentencing order shall also require that the person perform
35 not less than fifty hours and not more than one hundred hours

1 of community service.

2 *c.* For a third or subsequent offense committed within two
3 years of a prior conviction for the same offense, a serious
4 misdemeanor. The sentencing order shall also require that the
5 person perform not less than one hundred hours and not more
6 than one hundred fifty hours of community service.

7 **Sec. 3. NEW SECTION. 717B.10 Investigations and**
8 **prosecutions — false allegations.**

9 1. As used in this section, unless the context otherwise
10 requires:

11 *a.* "*Local law enforcement office*" means a city police force
12 or county sheriff's office.

13 *b.* "*Offense*" means animal abuse as provided in section
14 717B.2, animal neglect as provided in section 717B.3, animal
15 torture as provided in section 717B.3A, or abandonment as
16 provided in section 717B.8.

17 2. A duly sworn law enforcement officer shall not conduct an
18 investigation of the commission of an offense based on a false
19 allegation. An allegation is conclusively presumed to be false
20 if it is based on any of the following:

21 *a.* Evidence obtained by a person who enters onto the
22 property where the animal is maintained due to any of the
23 following:

24 (1) Trespass as defined in section 716.7.

25 (2) Deception as described in section 702.9, subsection 1
26 or 2.

27 *b.* A statement that is hearsay or any statement other than
28 direct observation by a credible witness.

29 3. In order for a duly sworn law enforcement officer to
30 conduct an investigation based on a complaint alleging an
31 offense, all of the following must apply:

32 *a.* The complainant must file a written statement with a
33 local law enforcement office. The written statement shall
34 be in the form of an affidavit as provided by the local law
35 enforcement office. The written statement shall comply with

1 all of the following:

2 (1) It must be signed and dated by the complainant and the
3 law enforcement officer taking the complaint, and notarized as
4 provided in chapter 9B.

5 (2) It must state the name of the owner of the animal, the
6 location where the alleged offense occurred, a description of
7 the alleged offense, and the name and contact information of
8 any other witness to the alleged offense.

9 b. Notwithstanding section 22.7, the local law enforcement
10 office delivers a copy of the statement described in
11 paragraph "a" to any person who may be investigated due to
12 the complaint. The statement shall be sent by certified mail
13 within twenty-four hours after the local law enforcement office
14 receives the complaint. The statement shall not contain
15 redactions.

16 4. A person charged with committing an offense under this
17 section shall have a cause of action against the person making
18 the complaint if the charge is dismissed, the person charged
19 is acquitted, or the person charged is convicted and the
20 conviction is reversed. The person charged shall be awarded
21 damages for any economic loss, as determined by a court,
22 resulting from the complaint.

23 5. A person charged with committing an offense under this
24 section shall have a cause of action based on the making of
25 a false affidavit, slander, libel, or harassment against any
26 person who asserted a false allegation against the person
27 charged if the charge is dismissed, the person charged
28 is acquitted, or the person charged is convicted and the
29 conviction is reversed.

30 6. A person is guilty of false allegation if the person
31 makes a complaint that is the basis for a criminal charge for
32 an offense and no charge is filed, the charge is dismissed, the
33 person charged is acquitted, or the person charged is convicted
34 and the conviction is reversed. A person guilty of false
35 allegation shall be subject to one of the following:

1 a. Except as otherwise provided in this subsection, a fine
2 of not more than one hundred dollars.

3 b. For a second offense committed within two years of a
4 prior conviction for the same offense, a simple misdemeanor.
5 The sentencing order shall require that the person perform not
6 less than fifty hours and not more than one hundred hours of
7 community service.

8 c. For a third or subsequent offense committed within two
9 years of a prior conviction for the same offense, a serious
10 misdemeanor. The sentencing order shall also require that the
11 person perform not less than one hundred hours and not more
12 than one hundred fifty hours of community service.

13 EXPLANATION

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

16 This bill applies to cases involving an allegation of the
17 mistreatment of an animal when the allegation is classified
18 as false due to a number of circumstances. The circumstances
19 include (1) the evidence was obtained due to trespass or
20 deception, or (2) the allegation is based on a statement
21 other than direct observation. In addition, any inspection
22 or investigation must be based on a written statement. The
23 statement is delivered to the person who is subject to the
24 complaint. The person subject to the complaint is provided
25 a cause of action against the person making the complaint if
26 the person subject to the complaint has been found not to have
27 committed the mistreatment. In that case, the person making
28 the complaint is subject to criminal penalties. The general
29 penalty is a fine of not more than \$100. However, for a second
30 offense committed within two years of a prior conviction for
31 the same offense, the person is guilty of a simple misdemeanor.
32 In addition, the sentencing order must provide that the person
33 perform not less than 50 hours and not more than 100 hours of
34 community service. For a third or subsequent offense committed
35 within two years of a prior conviction for the same offense,

1 the person is guilty of a serious misdemeanor. The sentencing
2 order shall also provide that the person perform not less than
3 100 hours and not more than 150 hours of community service.

4 APPLICABLE PENALTIES. A simple misdemeanor is punishable
5 by confinement for no more than 30 days or a fine of at least
6 \$65 but not more than \$625 or by both. A serious misdemeanor is
7 punishable by confinement for no more than one year and a fine
8 of at least \$315 but not more than \$1,875.

9 BACKGROUND. Code chapter 162 provides for the regulation
10 of commercial establishments (animal shelters, boarding
11 kennels, commercial breeders, commercial kennels, dealers, pet
12 shops, pounds, public auctions, or research facilities). The
13 Code chapter is regulated by the department of agriculture
14 and land stewardship that issues and renews several types
15 of authorizations to the owners and operators of commercial
16 establishments (licenses, permits, and registrations). Code
17 chapter 717 provides criminal offenses for committing livestock
18 abuse and livestock neglect. Code chapter 717B provides
19 criminal offenses for committing animal abuse, animal neglect,
20 animal torture, and animal abandonment. That Code chapter
21 does not apply to livestock, game animals, or nongame animals
22 declared to be a nuisance. Both Code chapters 717 and 717B are
23 enforced by a local authority which is a city or county.