

Senate File 2413 - Introduced

SENATE FILE 2413

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2387)

(SUCCESSOR TO SSB 3172)

A BILL FOR

1 An Act relating to agriculture and the powers and duties of the
2 department of agriculture and land stewardship, including
3 by providing for administration, programs, and regulations,
4 providing fees, providing penalties, making penalties
5 applicable, and including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

DEPARTMENTAL ORGANIZATION

Section 1. Section 159.5, subsection 7, Code 2020, is amended to read as follows:

~~7. Establish and maintain a marketing news service bureau in the department which shall, in cooperation with the federal market news and grading division~~ Cooperate with the agricultural marketing service of the United States department of agriculture, to collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced, and handled in the state.

Sec. 2. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

ANIMALS

PART A

COMMERCIAL ESTABLISHMENTS

Sec. 3. Section 162.2A, subsection 3, paragraph d, Code 2020, is amended by striking the paragraph.

PART B

ANIMAL HEALTH

Sec. 4. NEW SECTION. **163.2A Part — definitions.**

As used in this part, unless the context otherwise requires:

- 1. "*Animal*" means any livestock or agricultural animal as defined in section 717A.1.
- 2. "*Interested person*" means the owner of an animal; a person caring for the animal, if different from the owner of the animal; or a person holding a perfected agricultural lien or security interest in the animal under chapter 554.

Sec. 5. Section 163.3, Code 2020, is amended to read as follows:

163.3 Veterinary and special assistants.

The secretary or the secretary's designee may appoint one or more veterinarians licensed pursuant to [chapter 169](#) in each county as assistant veterinarians. The secretary may also

1 appoint ~~such~~ one or more special assistants as may be necessary
2 in cases of emergency, including as provided in [section 163.3A](#).

3 Sec. 6. Section 163.3A, subsection 1, Code 2020, is amended
4 to read as follows:

5 1. The department may provide veterinary emergency
6 preparedness and response services necessary to prevent or
7 control a serious threat to the public health, public safety,
8 or the state's economy caused by the transmission of disease
9 among ~~livestock as defined in [section 717.1](#) or agricultural~~
10 ~~animals as defined in [section 717A.1](#)~~. The services may include
11 measures necessary to ensure that all such animals carrying
12 disease are properly identified, segregated, treated, or
13 destroyed as provided in this Code.

14 Sec. 7. Section 163.3C, subsection 1, Code 2020, is amended
15 by striking the subsection.

16 Sec. 8. Section 163.3C, subsection 2, unnumbered paragraph
17 1, Code 2020, is amended to read as follows:

18 The department shall develop and establish a foreign animal
19 disease preparedness and response strategy for use by the
20 department in order to prevent, control, or eradicate the
21 transmission of foreign animal diseases among populations
22 of ~~livestock~~ animals. The strategy may be part of the
23 department's veterinary emergency preparedness and response
24 services as provided in [section 163.3A](#). The strategy shall
25 provide additional expertise and resources to increase
26 biosecurity efforts that assist in the prevention of a foreign
27 animal disease outbreak in this state. In developing and
28 establishing the strategy, the department shall consult with
29 interested persons including but not limited to the following:

30 Sec. 9. Section 163.3C, subsection 3, Code 2020, is amended
31 to read as follows:

32 3. The department shall implement the foreign animal
33 disease preparedness and response strategy if necessary to
34 prevent, control, or eradicate the transmission and incidence
35 of foreign animal diseases that may threaten or actually

1 threaten ~~livestock~~ animals in this state. In implementing
2 the strategy, the department may utilize emergency response
3 measures as otherwise required under [section 163.3A](#). The
4 department may but is not required to consult with interested
5 persons when implementing the strategy.

6 Sec. 10. NEW SECTION. **163.3D Emergency measures —**
7 **abandoned animals — authorization and seizure.**

8 1. *a.* The department may seize one or more abandoned
9 animals pursuant to an authorization providing emergency
10 measures to prevent or control the transmission of an
11 infectious or contagious disease among any population or
12 species of animals.

13 *b.* The authorization must be any of the following:

14 (1) A declaration or proclamation issued by the governor
15 pursuant to chapter 29C, including as provided in section
16 163.3A.

17 (2) An order issued by the secretary or the secretary's
18 designee pursuant to a provision in this subtitle.

19 (3) Any other provision of law in this subtitle that
20 requires the department to control the transmission of an
21 infectious or contagious disease among a population or species
22 of animals in this state.

23 *c.* If there is a conflict between a measure authorized to
24 be taken under paragraph "a", that is less restrictive than the
25 standards or procedures provided in this section, the measures
26 authorized to be taken under paragraph "a" shall prevail.

27 2. The department may appoint veterinary assistants or
28 special assistants as provided in section 163.3 as required to
29 administer this section.

30 3. It is presumed that an abandoned animal belonging to a
31 species subject to emergency measures as provided in subsection
32 1 has been exposed to an infectious or contagious disease as
33 provided in the authorization.

34 4. As part of the seizure of an abandoned animal, the
35 department may take, impound, and retain custody of the animal,

1 including by maintaining the animal in a manner and at a
2 location determined by the department to be reasonable under
3 the emergency circumstances. The department may take action as
4 provided in this subtitle to ensure that all animals exposed to
5 an infectious or contagious disease are properly identified,
6 tested, segregated, treated, or destroyed as provided in this
7 subtitle.

8 5. a. The department may seize an animal if the department
9 has a reasonable suspicion the animal has been abandoned,
10 including by entering onto public or private property or into a
11 private motor vehicle, trailer, or semitrailer parked on public
12 or private property, as provided in this subsection.

13 b. The department may enter onto private property or into
14 a private motor vehicle, trailer, or semitrailer to seize an
15 abandoned animal if the department obtains a search warrant
16 issued by a court, or enters onto the premises in a manner
17 consistent with the laws of this state and the United States,
18 including Article I, section 8, of the Constitution of the
19 State of Iowa, or the fourth amendment to the Constitution of
20 the United States.

21 c. An abandoned animal shall only be seized by the
22 department pursuant to the following conditions:

23 (1) The department provides written notice of its
24 abandonment determination to all reasonably identifiable
25 interested persons. The department shall make a good-faith
26 effort to provide the notice to interested persons by regular
27 mail, hand delivery, telephone, electronic mail, or other
28 reasonable means. The notice shall include all of the
29 following:

30 (a) The name and address of the department.

31 (b) A description of the animal subject to seizure.

32 (c) The delivery date of the notice.

33 (d) A statement informing the interested person that the
34 animal may be seized pursuant to this chapter within one day
35 following the delivery date of the notice. The statement

1 must specify a date, time, and location for delivery of the
2 interested person's response designated by the department, as
3 provided in this subsection.

4 (e) A statement informing the interested person that in
5 order to avoid seizure of the animal, the person must respond
6 to the notice in writing, stating that the animal has not been
7 abandoned and identifying what measures are being taken to care
8 for and manage the animal.

9 (2) Notwithstanding subparagraph (1), if the department
10 determines that it is not feasible to provide direct notice
11 of its abandonment determination to an interested person,
12 the department shall deliver a constructive notice of the
13 determination to that person by any reasonable manner, which
14 may include posting the notice at or near the place where
15 the animal is located. The department shall also post the
16 constructive notice on the department's internet site.

17 d. The department may seize the animal if the department
18 fails to receive a written response by the interested person by
19 the end of normal office hours of the next day the department
20 is available to receive the response after written notice of
21 the department's abandonment determination is delivered.

22 e. Upon a determination by the department that exigent
23 circumstances exist, the department may enter onto private
24 property without a warrant and may seize an abandoned animal,
25 in a manner consistent with the laws of this state and
26 the United States, including Article I, section 8, of the
27 Constitution of the State of Iowa, or the fourth amendment to
28 the Constitution of the United States.

29 6. If an animal is seized pursuant to this section, the
30 department shall post a notice in a conspicuous place at the
31 location where the animal was seized. The notice shall state
32 the animal has been seized by the department pursuant to this
33 section and at least briefly describe where and when the animal
34 was seized, the species and number of animals seized, and that
35 a dispositional proceeding is to be conducted pursuant to

1 section 163.3E.

2 Sec. 11. NEW SECTION. 163.3E **Emergency measures —**
3 **abandoned animals — dispositional proceeding.**

4 1. *a.* The department shall file a petition with the
5 district court for the disposition of an animal seized pursuant
6 to section 163.3D as soon as practicable.

7 *b.* The court shall notify the department and all interested
8 persons of the dispositional proceeding in a manner determined
9 reasonable by the court. The court shall hear the matter
10 within twenty-four hours from the time the department's
11 petition is filed. The court may grant a continuance by a
12 motion of the department or upon petition by an interested
13 person. However, the interested person shall post a bond or
14 other security with the department in an amount determined by
15 the court, which shall not be more than the amount sufficient
16 to provide for the maintenance of the animal for the duration
17 of the continuance.

18 2. Upon a determination by the department that exigent
19 circumstances exist, the dispositional proceeding may be
20 conducted by an administrative law judge in the same manner
21 as an emergency adjudicative proceeding pursuant to section
22 17A.18A. The administrative law judge shall notify the
23 department and all interested persons of the dispositional
24 proceeding in a manner determined reasonable by the
25 administrative law judge given the circumstances in the case.
26 The procedures provided in this section may be supplemented
27 or modified by a declaration or proclamation issued by the
28 governor or an order issued by the secretary or the secretary's
29 designee pursuant to section 163.3D.

30 3. *a.* A court or administrative law judge shall issue an
31 order for the disposition of the animal after making any of the
32 following determinations:

33 (1) That no interested person holds a legal interest in
34 the seized animal. In that case, the animal shall be deemed
35 abandoned and the order shall extinguish all prior legal

1 interests in the animal. The order shall grant an undivided
2 ownership interest in the animal free from any security
3 interest or other agricultural lien or encumbrance to the
4 department.

5 (2) That an interested person holds a legal interest in
6 the seized animal, and the department has reasonable suspicion
7 to believe that the animal has been exposed to an infectious
8 or contagious disease. In that case, the order shall provide
9 for the disposition of the animal in the same manner as if the
10 department had identified the animal as having been exposed to
11 the infectious or contagious disease under the authorization
12 provided in section 163.3D.

13 (3) That a person holds a legal interest in the seized
14 animal, and there is no reasonable suspicion that the seized
15 animal has been exposed to an infectious or contagious disease.
16 In that case, the order shall direct the department to transfer
17 custody of the animal to the interested person. In the event
18 the animal is returned to the interested person, the department
19 shall not be subject to any claim for damages caused by the
20 seizure if the department's actions were taken pursuant to
21 the department's emergency efforts to establish and maintain
22 quarantine in response to a disease outbreak, as set forth in
23 section 669.14, subsection 3.

24 *b.* A reasonable suspicion asserted by the department may
25 be based on any credible evidence that shows the animal's
26 possible exposure to an infectious or contagious disease or the
27 animal was abandoned. This paragraph "b" does not require the
28 department to conduct a test of an animal to determine whether
29 an animal has been exposed.

30 *c.* If two or more interested parties may be transferred
31 custody of an animal by the department pursuant to paragraph
32 "a", subparagraph (3), the court or administrative law judge
33 shall order the department to transfer the animal to the owner
34 or otherwise to the interested person best able to care for the
35 animal without prejudicing the rights of any other interested

1 person. However, in any cause of action brought by an
2 interested person contesting the order to transfer under this
3 subsection, the department shall not be included as a party.

4 4. *a.* In a dispositional proceeding conducted by a court or
5 administrative law judge under this section, or in a separate
6 cause of action brought by the department against an interested
7 person, the court or administrative law judge may award the
8 department all of the following:

9 (1) An amount necessary to reimburse the department for
10 expenses incurred in seizing and maintaining an abandoned
11 animal as well as any costs for the disposition of the
12 abandoned animal.

13 (2) Expenses related to the investigation and adjudication
14 of the case.

15 *b.* In a dispositional proceeding conducted by a court under
16 this section, or in a separate cause of action brought by the
17 department against an interested person, the court may award
18 the department court costs and reasonable attorney fees.

19 *c.* An award ordered under this subsection shall be paid
20 by an interested party who is transferred a seized animal by
21 the court or administrative law judge, or the owner of the
22 seized animal as determined by the court or administrative law
23 judge. The amount awarded the department shall be subtracted
24 from the proceeds, if any, received by the department from the
25 disposition of the animal. Any amount awarded by a court shall
26 be taxed as part of the costs of the cause of action.

27 *d.* If more than one interested person holds a legal interest
28 in the animal, the court or administrative law judge shall
29 calculate the respective contributions of the interested
30 persons based upon the percentage of legal interest in the
31 seized animal held by each interested person. The amount paid
32 to the department shall be sufficient to allow the department
33 to repay the livestock remediation fund as provided in section
34 459.501 and fully reimburse the department for all costs, fees,
35 and expenses incurred by the department under this section.

1 Sec. 12. NEW SECTION. 163.3F Interference with official
2 acts.

3 1. A person shall not interfere with an official act of the
4 department taken in the performance of a duty to prevent or
5 control the transmission of an infectious or contagious disease
6 among a population or species of animals, if the official act
7 is authorized as part of any of the following:

8 a. A veterinary emergency preparedness and response service
9 pursuant to section 163.3A.

10 b. A foreign animal disease preparedness and response
11 strategy pursuant to section 163.3C.

12 c. An emergency measure pursuant to section 163.3D or
13 163.3E.

14 2. Under this section, an official act of the department
15 may be performed by a departmental employee, or a veterinary or
16 special assistant appointed pursuant to section 163.3.

17 Sec. 13. NEW SECTION. 163.33 Feral swine.

18 1. "*Feral swine*" means any swine running at large.

19 2. A person shall not knowingly release swine to become
20 feral swine.

21 3. Upon discovery of feral swine on public or private
22 property, the department may destroy or order the destruction
23 of the feral swine. However, the department shall not destroy
24 the feral swine or order the feral swine's destruction, unless
25 the department concludes, after conducting a reasonable inquiry
26 in the area where the feral swine is located, that the feral
27 swine's ownership cannot be determined. The department may
28 call upon a peace officer or appropriate state or federal
29 agency, including but not limited to the department of natural
30 resources or the department of public safety, to enforce this
31 section as set forth in section 159.16.

32 4. A person may destroy feral swine if the feral swine is
33 on the person's property or is damaging the person's personal
34 property. The person shall immediately notify the department
35 of the destruction of the feral swine and allow for possible

1 testing of the feral swine by the department.

2 5. This section shall not be construed to limit the powers
3 of the department otherwise granted by law.

4 Sec. 14. Section 163.61, subsection 3, Code 2020, is amended
5 by adding the following new paragraph:

6 NEW PARAGRAPH. c. A person who interferes with an official
7 act as provided in section 163.3F shall be subject to a civil
8 penalty of at least one hundred dollars but not more than ten
9 thousand dollars. In the case of a continuing violation,
10 each day of the continuing violation is a separate violation.
11 However, a person shall not be subject to a civil penalty
12 totaling more than two hundred fifty thousand dollars arising
13 out of the same violation.

14 Sec. 15. Section 459.501, subsection 3, paragraph a, Code
15 2020, is amended by adding the following new subparagraph:

16 NEW SUBPARAGRAPH. (3) (a) To allocate moneys to the
17 department of agriculture and land stewardship for the payment
18 of expenses incurred by the department of agriculture and land
19 stewardship associated with all of the following:

20 (i) Providing for seizure of animals pursuant to sections
21 169.3D and 169.3E.

22 (ii) Court costs, reasonable attorney fees, and expenses
23 related to the investigation and prosecution of the case
24 arising from the seizure of animals.

25 (b) The department of natural resources shall allocate
26 any amount of unencumbered and unobligated moneys demanded in
27 writing by the department of agriculture and land stewardship
28 as provided in this subparagraph. The department of natural
29 resources shall complete the allocation upon receiving the
30 demand.

31 (c) The department of agriculture and land stewardship
32 shall repay the fund any amount received from an interested
33 person pursuant to an order by a court in a dispositional
34 proceeding conducted pursuant to section 163.3E.

35 Sec. 16. REPEAL. Section 166D.3, Code 2020, is repealed.

1 Sec. 17. CODE EDITOR DIRECTIVE.

2 1. The Code editor is directed to make the following
3 transfer:

4 Section 163.3 to section 163.3G.

5 2. The Code editor shall correct internal references in the
6 Code and in any enacted legislation as necessary due to the
7 enactment of this section.

8 Sec. 18. CODE EDITOR DIRECTIVE. The Code editor shall
9 divide chapter 163, subchapter I, into parts, including
10 sections 163.1 and 163.2 as part A, sections 163.2A through
11 163.5, including sections amended or enacted as provided in
12 this part of this division of this Act, as part B, and sections
13 163.6 through 163.25 as part C.

14

PART C

15

FOOD ANIMALS

16 Sec. 19. NEW SECTION. 716.7A Food operation trespass.

17 1. As used in this section, unless the context otherwise
18 requires:

19 a. "Apiary" and "bee" mean the same as defined in section
20 160.1A.

21 b. "Food animal" means an animal belonging to the bovine,
22 caprine, ovine, or porcine species; farm deer as defined in
23 section 170.1; turkeys, chickens, or other poultry; fish or
24 other aquatic organisms confined in private waters for human
25 consumption; or bees.

26 c. "Food establishment", "food processing plant", and
27 "farmers market" mean the same as defined in section 137F.1.

28 d. "Food operation" means any of the following:

29 (1) A location where a food animal is produced, maintained,
30 or otherwise housed or kept, or processed in any manner.

31 (2) A location other than as described in subparagraph (1)
32 where a food animal is kept, including an apiary, livestock
33 market, vehicle or trailer attached to a vehicle, fair,
34 exhibition, or a business operated by a person licensed to
35 practice veterinary medicine pursuant to chapter 169.

1 (3) A location where a meat food product, poultry product,
2 milk or milk product, eggs or an egg product, aquatic product,
3 or honey is prepared for human consumption, including a food
4 processing plant, a slaughtering establishment operating under
5 the provisions of 21 U.S.C. §451 et seq. or 21 U.S.C. §601
6 et seq.; or a slaughtering establishment subject to state
7 inspection as provided in chapter 189A.

8 (4) A food establishment or farmers market that sells or
9 offers for sale a meat food product, poultry product, milk
10 or milk product, eggs or an egg product, aquatic product, or
11 honey.

12 e. *"Meat food product", "poultry product", and "prepared"*
13 mean the same as defined in section 189A.2.

14 2. A person commits food operation trespass by entering
15 or remaining on the property of a food operation without the
16 consent of a person who has real or apparent authority to allow
17 the person to enter or remain on the property.

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

19 a. A person entering a right-of-way, if the person has not
20 been notified or requested by posted signage or other means to
21 abstain from entering onto the right-of-way or to vacate the
22 right-of-way.

23 b. A person having lawful authority to enter onto the
24 property of the food operation, including but not limited to a
25 federal, state, or local government official.

26 c. A person who is given express permission by the owner of
27 the food operation to enter onto or remain on the property of
28 the food operation.

29 d. A person employed by a food operation while acting in the
30 course of employment.

31 Sec. 20. Section 716.8, Code 2020, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 8. a. For a first offense, a person who
34 commits food operation trespass is guilty of an aggravated
35 misdemeanor.

1 cents.

2 Sec. 28. Section 214.4, subsection 1, unnumbered paragraph
3 1, Code 2020, is amended to read as follows:

4 If the department does not receive payment of the license
5 fee required pursuant to [section 214.3](#) within one month from
6 the due date, the department shall ~~send~~ deliver a notice to
7 the owner or operator of the device. ~~The notice shall be~~
8 ~~delivered by certified mail.~~ The notice shall state all of the
9 following:

10 Sec. 29. Section 214.6, Code 2020, is amended to read as
11 follows:

12 **214.6 Oath Duties of weighmasters weighmaster.**

13 ~~All persons keeping a commercial weighing and measuring~~
14 ~~device, before entering upon their duties as weighmasters, A~~
15 ~~weighmaster shall be sworn before some person having authority~~
16 ~~to administer oaths, to keep their ensure that a commercial~~
17 ~~weighing and measuring device is correctly balanced, to make~~
18 ~~true weights, and to shall render a correct account to the~~
19 ~~person having weighing done.~~

20 Sec. 30. Section 214.11, Code 2020, is amended to read as
21 follows:

22 **214.11 Inspections — recalibrations — penalty.**

23 1. The department shall provide for annual inspections
24 of all motor fuel pumps, including but not limited to motor
25 fuel blender pumps, licensed under [this chapter](#). Inspections
26 shall be for the purpose of determining the accuracy ~~of the~~
27 ~~pumps' measuring mechanisms, and for such and correctness of~~
28 ~~motor fuel pumps. For that purpose the department's inspectors~~
29 ~~may enter upon the premises of any wholesale dealer or retail~~
30 ~~dealer, as they are defined in [section 214A.1](#), of motor fuel~~
31 ~~or fuel oil within this state.~~

32 2. Upon completion of an inspection, the inspector shall
33 affix the department's seal to the measuring mechanism of the
34 motor fuel pump. The seal shall be appropriately marked,
35 dated, and recorded by the inspector. If the owner of an

1 inspected and sealed motor fuel pump is registered with the
2 department as a servicer in accordance with [section 215.23](#),
3 or employs a person so registered as a servicer, the owner
4 or other servicer may open the motor fuel pump, break the
5 department's seal, recalibrate the measuring mechanism if
6 necessary, and reseal the motor fuel pump as long as the
7 department is notified of the recalibration within forty-eight
8 hours, ~~on a form~~ in a manner provided by the department.

9 ~~2.~~ 3. A person violating a provision of [this section](#) is,
10 upon conviction, guilty of a simple misdemeanor.

11 PART B

12 MOTOR FUEL

13 Sec. 31. Section 214A.2A, subsection 1, Code 2020, is
14 amended to read as follows:

15 1. Fuel which is sold or is kept, offered, or exposed for
16 sale as kerosene shall be labeled as kerosene. The label
17 shall include the word "kerosene" ~~and a~~ or the designation as
18 ~~either "K1" or "K2"~~ "K1 kerosene", and shall indicate that
19 the kerosene is in compliance with the standard specification
20 adopted by A.S.T.M. international specification D3699 (1982).

21 Sec. 32. REPEAL. Section 214A.15, Code 2020, is repealed.

22 PART C

23 INSPECTIONS

24 Sec. 33. Section 215.4, Code 2020, is amended to read as
25 follows:

26 **215.4 Tag for inaccurate or incorrect device — reinspection**
27 **— license fee.**

28 A commercial weighing and measuring device found to be
29 inaccurate or incorrect upon inspection by the department
30 shall be rejected or tagged "condemned until repaired" and
31 the ~~"licensed for commercial use"~~ inspection sticker shall be
32 removed. If notice is received by the department that the
33 device has been repaired and upon reinspection the device is
34 found to be accurate or correct, ~~the~~ a license fee ~~shall not~~
35 may be charged for the reinspection. However, a second license

1 fee shall be charged if upon reinspection the device is found
2 to be inaccurate. The device shall be tagged "condemned" and
3 removed from service if a third reinspection fails.

4 Sec. 34. Section 215.7, Code 2020, is amended to read as
5 follows:

6 **215.7 Transactions by false weights or measures.**

7 1. A person shall be deemed to have violated the provisions
8 of this chapter and shall be punished as provided in chapter
9 ~~189~~, if the person does any of the following apply:

10 ~~1. a.~~ Sells, trades, delivers, charges
11 for, or claims to have delivered to a purchaser an amount
12 of any commodity which is less in weight or measure than
13 that which is asked for, agreed upon, claimed to have been
14 delivered, or noted on the delivery ticket.

15 ~~2. b.~~ Makes a settlement for or enters
16 a credit, based upon any false weight or measurement, for any
17 commodity purchased.

18 ~~3. c.~~ Makes a settlement for or enters
19 a credit, based upon any false weight or measurement, for any
20 labor where the price of producing or mining is determined by
21 weight or measure.

22 ~~4. d.~~ Records a false weight or
23 measurement upon the weight ticket or book.

24 2. The department may adopt rules pursuant to chapter 17A
25 that allow for reasonable variations and exceptions for small
26 packages.

27 3. A person who violates this section is guilty of a simple
28 misdemeanor.

29 Sec. 35. Section 215.23, Code 2020, is amended to read as
30 follows:

31 **215.23 Servicer's license.**

32 ~~1. A servicer shall not install, service, or repair a~~
33 ~~commercial weighing and measuring device until the servicer~~
34 ~~has demonstrated that the servicer has available adequate~~
35 ~~testing equipment, and that the servicer possesses a working~~

1 ~~knowledge of all devices the servicer intends to install or~~
2 ~~repair and of all appropriate weights, measures, statutes, and~~
3 ~~rules, as evidenced by passing a qualifying examination to~~
4 ~~be conducted by the department and obtaining a license. The~~
5 ~~secretary of agriculture shall establish by rule pursuant to~~
6 ~~chapter 17A, requirements for and contents of the examination.~~
7 The department may adopt rules pursuant to chapter 17A setting
8 forth qualification requirements for persons applying for a
9 servicer's license, including an examination.

10 2. In determining ~~these~~ a servicer's qualifications, the
11 ~~secretary shall~~ department may consider the specifications
12 of the United States national institute of standards and
13 technology, handbook 44, "Specifications, Tolerances, and
14 Technical Requirements for Weighing and Measuring Devices",
15 or the current successor or equivalent specifications adopted
16 by the United States national institute of standards and
17 technology.

18 3. The ~~secretary shall~~ department may require an annual the
19 payment of license fee ~~of not more than five dollars~~ for an
20 amount established by rule for each license issued under this
21 section.

22 4. Each A license shall expire ~~one year~~ two years from its
23 date of issuance.

24 Sec. 36. REPEAL. Sections 215.3 and 215.8, Code 2020, are
25 repealed.

26 PART D

27 EFFECTIVE DATE

28 Sec. 37. EFFECTIVE DATE. This division of this Act, being
29 deemed of immediate importance, takes effect upon enactment.

30 EXPLANATION

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

33 GENERAL. This bill amends, enacts, or repeals a number
34 of provisions relating to agriculture, including programs or
35 regulations administered by the department of agriculture

1 and land stewardship (DALs) as codified in Title V of the
2 Code, including in subtitle 1, which includes a number of
3 general provisions, subtitle 2, which includes provisions
4 regulating animal industry, and subtitle 4, which provides for
5 agricultural commodities and products in addition to related
6 activities.

7 DALs — ADMINISTRATION. The bill eliminates a requirement
8 that DALs maintain a marketing news service bureau, but retains
9 a requirement that it cooperate with the agricultural marketing
10 service of the United States department of agriculture (Code
11 section 159.5).

12 DALs — COMMERCIAL ESTABLISHMENTS. The bill eliminates
13 a requirement that an application form for the issuance
14 or renewal of an authorization to operate a commercial
15 establishment include the applicant's identification number,
16 which may be a tax identification number (Code section 162.2A).

17 DALs — CONTROL OF CONTAGIOUS AND INFECTIOUS DISEASES. The
18 bill provides that DALs may seize one or more abandoned animals
19 pursuant to an authorization providing emergency measures
20 to prevent or control the transmission of an infectious
21 or contagious disease (disease) among livestock or other
22 agricultural animals (animals) that have been abandoned.
23 The authorization may be made pursuant to a declaration or
24 proclamation issued by the governor, an order issued by the
25 secretary of agriculture, or another provision of law. As
26 part of a seizure, DALs may seize and maintain the animal upon
27 providing notice of the abandonment to identifiable interested
28 persons (an owner or secured creditor). The disposition
29 of the seized animal must be made by a court, unless DALs
30 determines that exigent circumstances exist. In that case, the
31 dispositional proceeding may be conducted by an administrative
32 law judge. The court or administrative law judge may award
33 DALs expenses and costs. DALs may use moneys available in the
34 livestock remediation fund (Code section 459.501) to pay for
35 expenses related to the seizure. Moneys in the fund may also

1 be used to pay for court costs, reasonable attorney fees, and
2 expenses related to the investigation and prosecution of the
3 case arising from the seizure.

4 The bill prohibits a person from interfering with an
5 official act of DALs taken in the performance of a duty to
6 prevent or control the transmission of a disease, if the action
7 is related to a veterinary emergency preparedness and response
8 service (Code section 163.3A), a foreign animal disease
9 preparedness and response strategy (Code section 163.3C), or an
10 emergency measure as provided in the bill (Code section 163.3D
11 or 163.3E). A person who violates the provision is subject to
12 a civil penalty of at least \$100 but not more than \$10,000,
13 with each day of the offense constituting a separate violation,
14 so long as the total amount does not exceed \$250,000 (Code
15 section 163.61).

16 DALs — REGULATION OF FERAL SWINE. The bill authorizes
17 DALs to destroy or order the destruction of feral swine
18 after conducting a reasonable inquiry into the feral swine's
19 ownership. A person may destroy feral swine on the person's
20 property or damaging the person's personal property, and must
21 immediately notify DALs and allow DALs to conduct a test for
22 disease.

23 STATE PSEUDORABIES ADVISORY COMMITTEE. The bill eliminates
24 the state pseudorabies advisory committee. The committee was
25 established in 1989 during the outbreak of the disease to
26 provide education to persons interested in pork production, to
27 advise the department, and to maintain communication with other
28 states and organizations (Code section 166D.3).

29 FOOD OPERATION TRESPASS. The bill creates the criminal
30 offense of food operation trespass. A person commits the
31 offense by entering or remaining on the property of a food
32 operation without the consent of a person who has real or
33 apparent authority over the property. A food operation is a
34 location where a food animal is produced or kept, a location
35 where a meat or poultry product, milk or milk product, eggs or

1 an egg product, aquatic product, or honey is prepared (e.g.,
2 processed and packaged) for human consumption, or a food
3 establishment or a farmers market that sells or offers for sale
4 a meat or poultry product, milk or milk product, eggs or egg
5 product, aquatic product, or honey. A food animal includes
6 an animal belonging to the bovine, caprine, ovine, or porcine
7 species; farm deer; turkeys, chickens, or other poultry; fish
8 or other aquatic animals; or honey bees. A person who commits
9 food operation trespass commits an aggravated misdemeanor
10 for the first offense and a class "D" felony for a second or
11 subsequent offense.

12 DALs — FERTILIZERS AND SOIL CONDITIONERS. The bill
13 authorizes DALs to adopt rules regulating the design,
14 construction, location, installation, and operation of
15 equipment associated with the use of fertilizers and soil
16 conditioners (Code sections 200.3 and 200.14). Current law
17 allows DALs to adopt such rules regulating anhydrous ammonia
18 equipment. The bill also eliminates a requirement that such
19 rules be in conformity with the published standards of the
20 agricultural ammonia institute. A person violating such rules
21 is guilty of a simple misdemeanor (Code section 200.18).

22 DALs — WEIGHTS AND MEASURES (GENERAL). The bill amends a
23 number of provisions regulating weights and measures, including
24 the inspection of associated devices. The bill reduces the
25 fee for the inspection of motor fuel pumps from \$9 to \$4.50
26 (the same amount due under current law if the inspection fee is
27 paid early) (Code section 214.3). The bill no longer requires
28 that DALs deliver a late payment notice to an owner or operator
29 of a device by certified mail (Code section 214.4). The bill
30 eliminates a requirement that a weighmaster (a person who keeps
31 and uses a device as part of a business) must take an oath (Code
32 sections 214.1 and 214.6).

33 DALs — WEIGHTS AND MEASURES (MOTOR FUEL). The bill revises
34 requirements for the labeling of kerosene (Code section
35 214A.2A). The bill also repeals a provision prohibiting a

1 person from placing gasoline into a receptacle, unless the
2 receptacle states a warning (Code section 214A.15).

3 DALS — WEIGHTS AND MEASURES (INSPECTIONS). The bill
4 provides that DALS may but is no longer required to charge a
5 license fee for a device that has been taken out of service
6 due to a repair and reinspected (Code section 215.4). The
7 bill allows DALS to make an exception in a case where a
8 commercial transaction involves a small package, and the
9 person would otherwise be guilty of a simple misdemeanor
10 because the person stated a false weight or measure (Code
11 section 215.7). The bill provides for the regulation of a
12 servicer (a person employed to install, service, or repair
13 a device), by eliminating an examination requirement and
14 allowing DALS to require qualification standards which may
15 include an examination (Code sections 215.1 and 215.23). The
16 bill provides for a two-year rather than annual servicer
17 license and allows DALS to establish the license fee. The
18 annual license fee is currently \$5. The bill eliminates a
19 provision that allows DALS to charge a complaining party an
20 inspection fee, if the complaint was unfounded (Code section
21 215.3). The bill repeals a provision that authorizes DALS to
22 establish reasonable variances in the weighing and measuring
23 of small packages (Code section 215.8). That qualification
24 is incorporated in the amendments to the provision regulating
25 small package transactions (Code section 215.7).

26 CRIMINAL PENALTIES. A simple misdemeanor is punishable by
27 confinement for no more than 30 days or a fine of at least \$65
28 but not more than \$625 or by both. An aggravated misdemeanor
29 is punishable by confinement for no more than two years and a
30 fine of at least \$625 but not more than \$6,250. A class "D"
31 felony is punishable by confinement for no more than five years
32 and a fine of at least \$750 but not more than \$7,500.