

**House File 705 - Introduced**

HOUSE FILE 705

BY MAXWELL

**A BILL FOR**

- 1 An Act providing for the regulation of commercial
- 2 establishments maintaining certain animals, providing fees,
- 3 and making penalties applicable.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 162.2, subsections 6 and 26, Code 2021,  
2 are amended to read as follows:

3 6. "Authorization" means a state license, or certificate of  
4 registration, ~~or permit~~ issued or renewed by the department to  
5 a commercial establishment as provided in [section 162.2A](#).

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

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

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

13 Sec. 2. Section 162.2, subsections 14, 15, and 17, Code  
14 2021, are amended by striking the subsections.

15 Sec. 3. Section 162.2A, subsections 1 and 2, Code 2021, are  
16 amended to read as follows:

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

20 a. A certificate of registration for a pound, animal  
21 shelter, or research facility.

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

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

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

32 Sec. 4. Section 162.2A, subsection 5, Code 2021, is amended  
33 by striking the subsection.

34 Sec. 5. Section 162.2B, Code 2021, is amended to read as  
35 follows:

1     **162.2B Fees.**

2     The department shall establish, assess, and collect fees as  
3 provided in [this section](#).

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

7     a. For the issuance or renewal of a certificate of  
8 registration, seventy-five dollars.

9     b. (1) For the issuance or renewal of a state license  
10 ~~or permit~~, a base fee of one hundred seventy-five dollars.

11 ~~However,~~ The department may establish, assess, and collect  
12 additional fees based on the number of animals maintained at  
13 the commercial establishment as provided by rules adopted by  
14 the department.

15     (2) Notwithstanding subparagraph (1), a commercial breeder  
16 who owns, keeps, breeds, or transports a greyhound dog for  
17 pari-mutuel wagering at a racetrack as provided in [chapter 99D](#)  
18 shall pay a different fee for the issuance or renewal of a  
19 state license as provided in rules adopted by the department.

20     2. The department shall retain all fees that it collects  
21 under [this section](#) for the exclusive purpose of administering  
22 and enforcing the provisions of [this chapter](#). The fees shall  
23 ~~be considered repayment receipts as defined in section 8.2~~  
24 deposited in the commercial establishment fund created in  
25 section 162.2C. ~~The general assembly shall appropriate moneys~~  
26 ~~to the department each state fiscal year necessary for the~~  
27 ~~administration and enforcement of [this chapter](#).~~

28     Sec. 6. Section 162.7, Code 2021, is amended to read as  
29 follows:

30     **162.7 Operation of a dealer — state license ~~or permit~~.**

31     A dealer shall only operate pursuant to a state license,  
32 ~~or a permit~~, issued or renewed by the department as provided  
33 in [section 162.2A](#). ~~A dealer who is a state licensee~~ shall  
34 maintain records as required by the department in order for the  
35 department to ensure compliance with the provisions of this

1 chapter. ~~A dealer who is a permittee may but is not required~~  
2 ~~to maintain records.~~ A dealer shall not purchase a dog or cat  
3 from a commercial establishment that does not have a valid  
4 authorization issued or renewed under [this chapter](#) or a similar  
5 authorization issued or renewed by another state.

6 Sec. 7. Section 162.8, Code 2021, is amended to read as  
7 follows:

8 **162.8 Operation of a commercial breeder — state license or**  
9 **permit.**

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

21 Sec. 8. Section 162.9A, Code 2021, is amended to read as  
22 follows:

23 **162.9A Operation of a public auction — state license or**  
24 **permit.**

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

1     Sec. 9. Section 162.10A, subsection 2, Code 2021, is amended  
2 to read as follows:

3     2. *a.* Except as provided in paragraph "b" ~~or "c"~~, a  
4 commercial establishment shall comply with rules that the  
5 department adopts to implement subsection 1. ~~A commercial~~  
6 ~~establishment shall be regulated under this paragraph "a"~~  
7 ~~unless the person is a state licensee as provided in paragraph~~  
8 ~~"b" or a permittee as provided in paragraph "c"~~.

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

14     ~~*c.* A permittee is not required to comply with rules that the~~  
15 ~~department adopts to implement a standard of care as provided~~  
16 ~~in subsection 1 for state licensees and registrants. The~~  
17 ~~department may adopt rules regulating a standard of care for~~  
18 ~~a permittee, so long as the rules are not more restrictive~~  
19 ~~than required for a permittee under the Animal Welfare Act.~~  
20 ~~However, the department may adopt prescriptive rules relating~~  
21 ~~to the standard of care. Regardless of whether the department~~  
22 ~~adopts such rules, a permittee meets the standard of care~~  
23 ~~required in [subsection 1](#) if it voluntarily complies with rules~~  
24 ~~applicable to state licensees or registrants. A finding by~~  
25 ~~the United States department of agriculture that a permittee~~  
26 ~~complies with the Animal Welfare Act is not conclusive when~~  
27 ~~determining that the permittee provides a standard of care~~  
28 ~~required in [subsection 1](#).~~

29     Sec. 10. Section 162.10B, Code 2021, is amended to read as  
30 follows:

31     **162.10B Commercial establishments — inspecting state**  
32 **licensees and registrants.**

33     The department ~~may~~ shall inspect ~~the~~ a commercial  
34 establishment of a registrant or state licensee upon receiving  
35 an application for issuance or renewal of a registration or

1 state license. The department shall conduct an inspection by  
2 entering onto its the business premises of the applicant at any  
3 time during normal working hours. The department may inspect  
4 records required to be maintained by the state licensee or  
5 registrant as provided in this chapter. If the owner or person  
6 in charge of the commercial establishment refuses admittance,  
7 the department may obtain an administrative search warrant  
8 issued under section 808.14. When conducting an inspection,  
9 the department may cooperate with the United States department  
10 of agriculture acting under the Animal Welfare Act.

11 Sec. 11. Section 162.10C, Code 2021, is amended to read as  
12 follows:

13 **162.10C Commercial establishments — monitoring permittees**  
14 **Reports to United States department of agriculture.**

15 ~~1. The department may monitor the commercial establishment~~  
16 ~~of a permittee by entering onto its business premises at~~  
17 ~~any time during normal working hours. The department shall~~  
18 ~~monitor the commercial establishment for the limited purpose of~~  
19 ~~determining whether the permittee is providing for a standard~~  
20 ~~of care required for permittees under section 162.10A. If~~  
21 ~~the owner or person in charge of the commercial establishment~~  
22 ~~refuses admittance, the department may obtain an administrative~~  
23 ~~search warrant issued under section 808.14.~~

24 ~~2. In order to enter onto the business premises of a~~  
25 ~~permittee's commercial establishment, the department must have~~  
26 ~~reasonable cause to suspect that the permittee is not providing~~  
27 ~~for the standard of care required for permittees under section~~  
28 ~~162.10A. Reasonable cause must be supported by any of the~~  
29 ~~following:~~

30 ~~a. An oral or written complaint received by the department~~  
31 ~~by a person. The complainant must provide the complainant's~~  
32 ~~name and address and telephone number. Notwithstanding chapter~~  
33 ~~22, the department's record of a complaint is confidential,~~  
34 ~~unless any of the following apply:~~

35 ~~(1) The results of the monitoring are used in a contested~~

1 ~~case proceeding as provided in [chapter 17A](#) or in a judicial~~  
2 ~~proceeding.~~

3 ~~(2) The record is sought in discovery in any administrative,~~  
4 ~~civil, or criminal case.~~

5 ~~(3) The department's record of a complaint is filed by a~~  
6 ~~person other than an individual.~~

7 ~~b. A report prepared by a person employed by the United~~  
8 ~~States department of agriculture that requires a permittee to~~  
9 ~~take action necessary to correct a breach of standard of care~~  
10 ~~required of federal licensees by the Animal Welfare Act or of~~  
11 ~~permittees by [section 162.10A](#). The department is not required~~  
12 ~~to dedicate any number of hours to viewing or analyzing such~~  
13 ~~reports.~~

14 ~~3. When carrying out [this section](#), the department may~~  
15 ~~cooperate with the United States department of agriculture.~~  
16 The department shall report any findings resulting in an  
17 enforcement action under this chapter, including section  
18 162.10D, to the United States department of agriculture acting  
19 under the Animal Welfare Act.

20 Sec. 12. Section 162.11, subsection 1, Code 2021, is amended  
21 by striking the subsection.

22 EXPLANATION

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

25 GENERAL. This bill amends Code chapter 162 by providing for  
26 the regulation of commercial establishments that possess or  
27 control animals for business purposes on a profit or nonprofit  
28 basis, but not including livestock or animals used for an  
29 agricultural purpose. The Code chapter is administered and  
30 enforced by the department of agriculture and land stewardship  
31 (DALs).

32 BILL'S PROVISIONS. The bill eliminates the right of a  
33 commercial breeder, dealer, or public auction to operate under  
34 a permit. All such persons must be issued a state license. The  
35 bill provides that DALs may require a state licensee pay a fee

1 based on the number of animals maintained at the commercial  
2 establishment. The amount of the fee is established by rule.  
3 The bill provides that a DALs inspection of a registrant or a  
4 state licensee is required.

5 BACKGROUND — AUTHORIZATIONS. DALs issues different  
6 categories of authorizations to persons operating as commercial  
7 establishments. A pound, animal shelter, or research facility  
8 must be issued a certificate of registration and a boarding  
9 kennel, commercial kennel, or pet shop must be issued a state  
10 license. A commercial breeder, dealer, or public auction may  
11 elect to be issued a state license or alternatively a permit  
12 if the commercial breeder, dealer, or public auction operates  
13 under a federal license issued by the United States department  
14 of agriculture (USDA) under the Animal Welfare Act (AWA)  
15 (amended Code sections 162.2A, 162.7, and 162.8).

16 BACKGROUND — FEES. A commercial establishment is required  
17 to pay an authorization fee for deposit in the commercial  
18 establishment fund (amended Code section 162.2B and Code  
19 section 162.2C). A registrant pays \$75 and a state licensee  
20 and permittee pays \$175.

21 INSPECTIONS. DALs may inspect a registrant or state  
22 licensee by entering onto its business premises and may inspect  
23 its records (amended Code section 162.10C). Alternatively,  
24 DALs may monitor a permittee by entering onto its business  
25 premises for the limited purpose of determining whether the  
26 permittee is providing for the required standard of care. In  
27 order to enter onto the premises of a permittee, DALs must have  
28 reasonable cause supported by an oral or written complaint or a  
29 report filed by the USDA.

30 BACKGROUND — STANDARD OF CARE. Currently, a commercial  
31 establishment must provide animals with a general standard of  
32 care, including by providing adequate feed, adequate water,  
33 housing facilities, sanitary control, grooming practices, and  
34 veterinary care (amended Code section 162.10A). In addition, a  
35 registrant or state licensee must comply with DALs' rules, with



1 one exception. DALs may adopt different rules that apply to a  
2 state licensee who keeps greyhounds for racing. A permittee is  
3 allowed to meet that standard of care without complying with  
4 DALs rules applicable to registrants and state licensees. DALs  
5 may adopt special rules for permittees so long as the rules are  
6 not more restrictive than the AWA.

7 CIVIL PENALTIES. DALs is required to establish, impose, and  
8 assess civil penalties for violations of the Code chapter's  
9 provisions. For an authorized commercial establishment  
10 (registrant, state licensee, or permittee), the civil penalty  
11 is up to \$500 per day of a violation. For a housing violation,  
12 the civil penalty is assessed for the first day, but not for  
13 the subsequent 15 days to allow for correction according to a  
14 DALs plan. For an unauthorized commercial establishment, the  
15 civil penalty is up to \$1,000 per day of a violation, without a  
16 grace period for a housing violation.

17 CRIMINAL PENALTIES. A person who violates a standard of care  
18 is guilty of a simple misdemeanor. A person who operates a  
19 commercial establishment without obtaining an authorization is  
20 also guilty of a simple misdemeanor. A simple misdemeanor is  
21 punishable by confinement for no more than 30 days and a fine  
22 of at least \$105 but not more than \$855.