

Senate File 2135 - Introduced

SENATE FILE 2135

BY PETERSEN

A BILL FOR

1 An Act providing for the regulation of commercial establishments
2 possessing or controlling animals other than agricultural
3 animals, providing fees, making appropriations, providing
4 penalties, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 162.2, subsection 6, Code 2026, is amended
2 to read as follows:

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

7 Sec. 2. Section 162.2, subsection 17, Code 2026, is amended
8 by striking the subsection.

9 Sec. 3. Section 162.2, subsection 26, Code 2026, is amended
10 by striking the subsection and inserting in lieu thereof the
11 following:

12 26. "State licensee" means a boarding kennel, commercial
13 breeder, commercial kennel, dealer, pet shop, or public auction
14 required to operate under a state license issued or renewed by
15 the department pursuant to section 162.2A.

16 Sec. 4. Section 162.2A, subsections 1, 2, and 4, Code 2026,
17 are amended to read as follows:

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

21 a. A certificate of registration ~~for~~ to a pound, animal
22 shelter, or research facility.

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

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

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

32 4. The An authorization ~~expires on an annual basis as~~ period
33 is twelve months as provided by the department, ~~and.~~ An
34 authorization must be renewed by the commercial establishment on
35 ~~an annual basis on~~ or before the authorization's expiration date.

1 Sec. 5. Section 162.2A, Code 2026, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 3A. The department shall refuse to approve
4 an application by a commercial establishment for the issuance
5 of an authorization, if there is substantial evidence that the
6 commercial establishment will not provide a standard of care
7 required for animals in its possession or under its control as
8 provided in section 162.10A.

9 Sec. 6. Section 162.2A, subsection 5, Code 2026, is amended
10 by striking the subsection.

11 Sec. 7. Section 162.2B, subsection 1, Code 2026, is amended
12 to read as follows:

13 1. a. A commercial establishment shall pay an authorization
14 ~~fees~~ fee to the department for the issuance or renewal of
15 ~~a certificate of registration, state license, or permit.~~ an
16 authorization as follows:

17 ~~a.~~ (1) For the issuance or renewal of a certificate of
18 registration, seventy-five dollars.

19 ~~b.~~ (2) For the issuance or renewal of a state license ~~or~~
20 ~~permit~~, one hundred seventy-five dollars.

21 b. If the department is required to conduct more than
22 one inspection of a commercial establishment during the same
23 authorization period as provided in section 162.10B because the
24 commercial establishment violated a standard of care as provided
25 in section 162.10A, the commercial establishment shall pay the
26 department a reinspection fee for a second and each subsequent
27 inspection. The amount of the reinspection fee shall equal one
28 hundred fifty dollars plus the cost of the round-trip mileage
29 incurred by the department to conduct the inspection at the
30 standard mileage rate for the department.

31 Sec. 8. Section 162.3, Code 2026, is amended to read as
32 follows:

33 **162.3 Operation of a pound — ~~certificate of registration as~~**
34 **registrant.**

35 1. A pound shall ~~only~~ operate as a registrant under

1 this chapter pursuant to a certificate of registration an
2 authorization issued or renewed by the department as provided in
3 section 162.2A, regardless of whether the animal shelter is a
4 federal licensee.

5 2. A pound may sell dogs or cats under its control if
6 sales are allowed by the department. The pound shall maintain
7 records as required by the department in order for the department
8 to ensure the pound's compliance with the provisions of this
9 chapter.

10 Sec. 9. Section 162.4, Code 2026, is amended to read as
11 follows:

12 **162.4 Operation of an animal shelter — ~~certificate of~~**
13 **~~registration as registrant.~~**

14 1. An animal shelter shall only operate as a registrant
15 under this chapter pursuant to a certificate of registration an
16 authorization issued or renewed by the department as provided in
17 section 162.2A, regardless of whether the animal shelter is a
18 federal licensee.

19 2. An animal shelter may sell dogs or cats if sales are
20 allowed by the department. The animal shelter facility shall
21 maintain records as required by the department in order for the
22 department to ensure the animal shelter's compliance with the
23 provisions of this chapter.

24 Sec. 10. Section 162.4A, Code 2026, is amended to read as
25 follows:

26 **162.4A Operation of a research facility — ~~certificate of~~**
27 **~~registration as registrant.~~**

28 1. A research facility shall only operate as a registrant
29 under this chapter pursuant to a certificate of registration an
30 authorization issued by the department as provided in section
31 162.2A, regardless of whether the research facility is a federal
32 licensee. The

33 2. A research facility shall maintain records as required by
34 the department in order for the department to ensure the research
35 facility's compliance with the provisions of this chapter.

1 3. A research facility shall not purchase a dog or cat from a
2 commercial establishment that does not have a valid authorization
3 issued or renewed under this chapter or a similar authorization
4 issued or renewed by another state.

5 Sec. 11. Section 162.5, Code 2026, is amended to read as
6 follows:

7 **162.5 Operation of a pet shop — as state license licensee.**

8 1. A pet shop shall ~~only~~ operate as a state licensee under
9 this chapter pursuant to a ~~state license~~ an authorization
10 issued or renewed by the department pursuant to section 162.2A,
11 regardless of whether the pet shop is a federal licensee.

12 2. The pet shop shall maintain records as required by the
13 department in order for the department to ensure the pet shop's
14 compliance with the provisions of this chapter.

15 3. A pet shop shall not purchase a dog or cat from a
16 commercial establishment that does not have a valid authorization
17 issued or renewed under this chapter or a similar authorization
18 issued or renewed by another state.

19 Sec. 12. Section 162.5A, Code 2026, is amended to read as
20 follows:

21 **162.5A Operation of a boarding kennel — as state license**
22 **licensee.**

23 1. A boarding kennel shall ~~only~~ operate as a state licensee
24 under this chapter pursuant to a ~~state license~~ an authorization
25 issued by the department as provided in section 162.2A,
26 regardless of whether the boarding kennel is a federal licensee.

27 ~~The~~

28 2. A boarding kennel shall maintain records as required by
29 the department in order for the department to ensure the boarding
30 kennel's compliance with the provisions of this chapter.

31 3. A boarding kennel shall not purchase a dog or cat from a
32 commercial establishment that does not have a valid authorization
33 issued or renewed under this chapter or a similar authorization
34 issued or renewed by another state.

35 Sec. 13. Section 162.6, Code 2026, is amended to read as

1 follows:

2 **162.6 Operation of a commercial kennel — as state license**
3 **licensee.**

4 1. A commercial kennel shall ~~only~~ operate as a state licensee
5 under this chapter pursuant to a ~~state license~~ an authorization
6 issued or renewed by the department as provided in section
7 162.2A, regardless of whether the commercial kennel is a federal
8 licensee.

9 2. A commercial kennel shall maintain records as required
10 by the department in order for the department to ensure the
11 commercial kennel's compliance with the provisions of this
12 chapter.

13 3. A commercial kennel shall not purchase a dog or cat from a
14 commercial establishment that does not have a valid authorization
15 issued or renewed under this chapter or a similar authorization
16 issued or renewed by another state.

17 Sec. 14. Section 162.7, Code 2026, is amended to read as
18 follows:

19 **162.7 Operation of a dealer — as state license ~~or permit~~**
20 **licensee.**

21 1. A dealer shall ~~only~~ operate as a state licensee under
22 this chapter pursuant to a ~~state license, or a permit, an~~
23 authorization issued or renewed by the department as provided in
24 section 162.2A, regardless of whether the dealer is a federal
25 licensee.

26 2. A dealer ~~who is a state licensee~~ shall maintain records as
27 required by the department in order for the department to ensure
28 compliance with the provisions of this chapter. ~~A dealer who is~~
29 ~~a permittee may but is not required to maintain records.~~

30 3. A dealer shall not purchase a dog or cat from a commercial
31 establishment that does not have a valid authorization issued or
32 renewed under this chapter or a similar authorization issued or
33 renewed by another state.

34 Sec. 15. Section 162.8, Code 2026, is amended to read as
35 follows:

1 **162.8 Operation of a commercial breeder — as state license**
2 **~~or permit licensee.~~**

3 1. A commercial breeder shall ~~only operate as a state~~
4 licensee under this chapter pursuant to a state license, or a
5 permit, an authorization issued or renewed by the department as
6 provided in section 162.2A, regardless of whether the commercial
7 breeder is a federal licensee.

8 2. A commercial breeder ~~who is a state licensee~~ shall
9 maintain records as required by the department in order for the
10 department to ensure the commercial breeder's compliance with
11 the provisions of this chapter. ~~A commercial breeder who is a~~
12 ~~permittee may but is not required to maintain records.~~

13 3. A commercial breeder shall not purchase a dog or cat
14 from a commercial establishment that does not have a valid
15 authorization issued or renewed under this chapter or a similar
16 authorization issued or renewed by another state.

17 Sec. 16. Section 162.9A, Code 2026, is amended to read as
18 follows:

19 **162.9A Operation of a public auction — as state license**
20 **~~or permit licensee.~~**

21 1. A public auction shall ~~only operate as a state licensee~~
22 under this chapter pursuant to a state license, or a permit, an
23 authorization issued or renewed by the department as provided in
24 section 162.2A, regardless of whether the public auction is a
25 federal licensee.

26 2. A public auction ~~which is a state licensee~~ shall maintain
27 records as required by the department in order for the department
28 to ensure the public auction's compliance with the provisions of
29 this chapter. ~~A public auction which is a permittee may but is~~
30 ~~not required to maintain records.~~

31 3. A public auction shall not purchase a dog or cat from a
32 commercial establishment that does not have a valid authorization
33 issued or renewed under this chapter or a similar authorization
34 issued or renewed by another state.

35 Sec. 17. Section 162.10A, subsection 1, Code 2026, is amended

1 by adding the following new paragraph:

2 NEW PARAGRAPH. c. The department shall adopt all rules
3 necessary or desirable to fully provide for an animal's standard
4 of care.

5 Sec. 18. Section 162.10A, subsection 2, Code 2026, is amended
6 by striking the subsection.

7 Sec. 19. Section 162.10B, Code 2026, is amended to read as
8 follows:

9 **162.10B Commercial establishments — ~~inspecting state~~**
10 **licensees and registrants inspections.**

11 1. The department shall inspect a commercial establishment
12 once during the commercial establishment's authorization period
13 as provided in section 162.2A. However, the department may
14 inspect a commercial establishment more than once during the
15 same authorization period if the department determines that the
16 inspection is necessary in order to administer and enforce the
17 provisions of this chapter.

18 2. The department may shall inspect the a commercial
19 establishment of a registrant or state licensee by entering
20 onto its business premises at any time during normal working
21 hours. The department may shall inspect records required to
22 be maintained by the state licensee or registrant commercial
23 establishment as provided in this chapter. If the owner,
24 operator, or person in charge of the commercial establishment
25 refuses admittance, the department may obtain an administrative
26 search warrant issued under section 808.14.

27 Sec. 20. Section 162.10D, Code 2026, is amended to read as
28 follows:

29 **~~162.10D Commercial establishments — disciplinary actions~~**
30 **Disciplinary action — suspending or revoking authorization.**

31 1. The department may take disciplinary action against a
32 person commercial establishment as provided in this section
33 or section 162.12A. The department may take disciplinary
34 action under this section by suspending or revoking the
35 person's commercial establishment's authorization for violating

1 a provision of this chapter ~~or~~, committing an offense under
2 chapter 717B, or ~~who commits~~ committing an unlawful practice
3 under section 714.16.

4 2. a. The department may require an owner, operator, or
5 employee of a commercial establishment subject to disciplinary
6 action under subsection 1 to complete a continuing education
7 program as a condition for retaining an authorization. This
8 ~~section paragraph~~ does not prevent a person from voluntarily
9 participating in a continuing education program.

10 ~~3.~~ b. The department shall administer the continuing
11 education program by either providing direct instruction or
12 selecting persons to provide such instruction. The department is
13 not required to compensate persons for providing the instruction,
14 and may require attendees to pay reasonable fees necessary to
15 compensate the department providing the instruction or a person
16 selected by the department to provide the instruction. The
17 department shall, to every extent possible, select persons to
18 provide the instruction by consulting with organizations that
19 represent commercial establishments, including but not limited to
20 the Iowa pet breeders association.

21 ~~4.~~ c. The department shall establish the criteria for a
22 continuing education program which shall include at least three
23 and not more than eight hours of instruction. The department
24 shall provide for the program's beginning and ending dates.
25 However, a person must complete the program in twelve months or
26 less.

27 Sec. 21. Section 162.11, subsection 1, Code 2026, is amended
28 by striking the subsection.

29 Sec. 22. Section 162.12A, Code 2026, is amended to read as
30 follows:

31 **162.12A Civil Disciplinary action — civil penalties.**

32 The department shall ~~establish, impose, and assess~~ may
33 take disciplinary action against a commercial establishment as
34 provided in this section or section 162.10D. The department may
35 take disciplinary action under this section by establishing,

1 imposing, and assessing civil penalties for violations of this
2 chapter. The department may by rule establish a schedule of
3 civil penalties for violations of this chapter. All civil
4 penalties collected under this section shall be deposited into
5 the general fund of the state.

6 1. a. A commercial establishment that operates pursuant
7 to an authorization issued or renewed under this chapter is
8 subject to a civil penalty of not more than ~~five hundred~~ one
9 thousand dollars, regardless of the number of animals possessed
10 or controlled by the commercial establishment, for violating this
11 chapter. Except as provided in paragraph "b", each day that a
12 violation continues shall be deemed a separate offense.

13 b. This paragraph applies to a commercial establishment
14 that violates a standard of care involving housing as provided
15 in section 162.10A. The departmental official who makes a
16 determination that a violation exists shall provide a corrective
17 plan to the commercial establishment describing how the violation
18 will be corrected within a compliance period of not more than
19 fifteen days from the date of approval by the official of the
20 corrective plan. The civil penalty shall not exceed ~~five hundred~~
21 one thousand dollars for the first day of the violation. After
22 that day, the department shall not impose a civil penalty for
23 the violation during the compliance period. The department shall
24 not impose an additional civil penalty, unless the commercial
25 establishment fails to correct the violation by the end of the
26 compliance period. If the commercial establishment fails to
27 correct the violation by the end of the compliance period, each
28 day that the violation continues shall be deemed a separate
29 offense.

30 2. A commercial establishment that does not operate pursuant
31 to an authorization issued or renewed under this chapter is
32 subject to a civil penalty of not more than ~~one~~ two thousand
33 dollars, regardless of the number of animals possessed or
34 controlled by the commercial establishment, for violating this
35 chapter. Each day that a violation continues shall be deemed a

1 separate offense.

2 Sec. 23. Section 717B.2, subsection 2, paragraph 1, Code
3 2026, is amended to read as follows:

4 1. An act required to be carried out by a commercial
5 establishment to care for an animal in its possession or
6 under its control as described in section 162.10A, ~~subsection~~
7 ~~1,~~ provided that the commercial establishment complies with
8 applicable standard of care requirements ~~pursuant to subsections~~
9 ~~1 and 2 of that~~ provided in that section, including applicable
10 rules adopted by the department.

11 Sec. 24. Section 717B.3, subsection 2, Code 2026, is amended
12 to read as follows:

13 2. This section does not apply to any of the following:

14 a. A person commercial establishment operating as an animal
15 shelter, boarding kennel, commercial breeder, commercial kennel,
16 dealer, pet shop, pound, or public auction, pursuant to an
17 authorization issued or renewed an authorization to operate a
18 commercial establishment, or a person acting under the direction
19 or supervision of that person by the department pursuant to
20 section 162.2A, if all of the following apply:

21 (1) The animal, as described in subsection 1, was maintained
22 as part of the commercial establishment's operation.

23 (2) In providing conditions for the welfare of the animal,
24 as described in subsection 1, the person commercial establishment
25 complied with the standard of care requirements provided in
26 section 162.10A, ~~subsection 1,~~ including any applicable rules
27 adopted by the department applying to any of the following:

28 (a) ~~A state licensee or registrant operating pursuant to~~
29 ~~section 162.10A, subsection 2, paragraph "a".~~

30 (b) ~~A permittee operating pursuant to section 162.10A,~~
31 ~~subsection 2, paragraph "b".~~

32 b. A commercial establishment operating as a research
33 facility, as defined in section 162.2, pursuant to an
34 authorization issued or renewed by the department pursuant to
35 section 162.2A if the research facility has been issued or

1 ~~renewed a valid authorization by the department pursuant to~~
2 ~~chapter 162,~~ and performs functions within the scope of accepted
3 practices and disciplines associated with the research facility.

4 Sec. 25. Section 717B.3A, subsection 2, paragraph k, Code
5 2026, is amended to read as follows:

6 k. An act required to be carried out by a commercial
7 establishment to care for an animal in its possession or under
8 its control as ~~described~~ provided in section 162.10A, ~~subsection~~
9 ~~1,~~ ~~provided that the commercial establishment complies with~~
10 ~~applicable standard of care requirements pursuant to subsections~~
11 ~~1 and 2 of that section.~~

12 Sec. 26. Section 717F.7, subsection 20, paragraph b, Code
13 2026, is amended to read as follows:

14 b. The person is registered by the department of agriculture
15 and land stewardship. Upon a complaint filed with the department
16 of agriculture and land stewardship, the department may inspect
17 the premises or investigate the practices of the registered
18 person and suspend or revoke the registration for the same causes
19 and in the same manner as ~~provided in section 162.12~~ 162.10B.

20 Sec. 27. REPEAL. Sections 162.10C and 162.12, Code 2026, are
21 repealed.

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 BACKGROUND — REGULATION. The federal and state governments
26 regulate the care of animals possessed or controlled by certain
27 commercial establishments. The United States department of
28 agriculture (USDA) provides for such regulation under the
29 federal Animal Welfare Act, 7 U.S.C. ch. 54. In Iowa, the
30 department of agriculture and land stewardship (DALs) regulates
31 animals, other than agricultural animals, that are owned or
32 controlled by commercial establishments (Code chapter 162). A
33 commercial establishment includes nonprofit organizations that
34 temporarily hold animals, research facilities, and various types
35 of businesses that breed, board, or sell animals (Code section

1 162.2).

2 BACKGROUND — AUTHORIZATIONS. Each type of commercial
3 establishment must operate under an authorization issued and
4 annually renewed by DALs. A certificate of registration must
5 be issued or renewed to a pound (Code section 162.3), animal
6 shelter (Code section 162.4), or research facility (Code section
7 162.4A); a state license must be issued or renewed to a pet shop
8 (Code section 162.5), boarding kennel (Code section 162.5A), or
9 commercial kennel (Code section 162.6). A state license must
10 also be issued to a dealer (Code section 162.7), commercial
11 breeder (Code section 162.8), or public auction (Code section
12 162.9A). However, these three types of commercial establishments
13 may operate under a federal license issued and renewed by USDA,
14 if also issued and renewed a permit by DALs.

15 BACKGROUND — FEES AND FUND. A commercial establishment must
16 pay a fee to DALs for being issued or renewed an authorization
17 (Code section 162.2B). Moneys collected in fees by DALs are
18 deposited into a commercial establishment fund (fund) (Code
19 section 162.2C). Moneys in the fund are appropriated to DALs for
20 purposes of carrying out the provisions of Code chapter 162.

21 BACKGROUND — STANDARD OF CARE. A general standard of care
22 applies to all commercial establishments. The commercial
23 establishment must ensure that an animal in its possession
24 or under its control is not lacking adequate feed, adequate
25 water, housing facilities, sanitary control, grooming practices
26 affecting the health of the animal, and veterinary care (Code
27 section 162.10A). A registrant or state licensee must also comply
28 with DALs's rules adopted to administer and enforce this standard
29 of care. A permittee may meet the standard of care without
30 complying with DALs's rules. DALs may adopt rules implementing
31 a standard of care for permitted establishments so long as the
32 rules are not more restrictive than the federal Animal Welfare
33 Act. A person who commits animal cruelty under Code chapter 717B
34 fails to meet the standard of care as a matter of law.

35 BACKGROUND — RECORDKEEPING AND INSPECTIONS. A registrant or

1 state licensee must maintain business records under state law. A
2 permittee may but is not required to maintain business records.
3 DALs may inspect a registrant or state licensee by entering
4 onto its premises and may inspect its records (Code section
5 162.10B). DALs may monitor a permittee by entering onto its
6 premises for the limited purpose of determining whether the
7 permittee is providing for the required standard of care (Code
8 section 162C.10). In order to enter onto the premises of a
9 permittee, DALs must have reasonable cause supported by an oral
10 or written complaint or a report filed by USDA.

11 BACKGROUND — DISCIPLINARY ACTIONS. DALs may take disciplinary
12 action against a commercial establishment by suspending or
13 revoking the commercial establishment's authorization (Code
14 section 162.10D). DALs may require an owner, operator, or
15 employee of a commercial establishment to complete a continuing
16 education program that is supervised by DALs. Code section 162.12
17 repeats earlier provisions, including by allowing DALs to deny a
18 certificate of registration or state license based on standard of
19 care.

20 BACKGROUND — PENALTIES. DALs may establish, impose, and
21 assess a civil penalty for an act committed by a commercial
22 establishment that violates an applicable regulation. For
23 an authorized commercial establishment, the amount of the
24 civil penalty cannot exceed \$500 per day of a violation,
25 including failing to comply with the required standard of
26 care. For operating a commercial establishment without an
27 authorization, the civil penalty cannot exceed \$1,000 per day
28 of a violation (Code section 162.12A). A person who operates
29 a commercial establishment without an authorization, or a
30 commercial establishment that violates the standard of care, is
31 guilty of a simple misdemeanor (Code section 162.13). A simple
32 misdemeanor is punishable by confinement for no more than 30
33 days and a fine of at least \$105 but not more than \$855.
34 The person may be required to relinquish animals to DALs for
35 final disposition. The person may also be subject to criminal

1 penalties under Code chapter 717B for animal neglect, abuse, or
2 torture.

3 BILL'S PROVISIONS — ELIMINATION OF PERMITS. This bill
4 provides that a commercial breeder, dealer, or public auction
5 must operate under a state license rather than a permit. The
6 commercial breeder, dealer, or public auction is subject to the
7 same regulations as other state licensees, including standard of
8 care, maintenance of records, and inspection requirements.

9 BILL'S PROVISIONS — ELIMINATION OF DUPLICATIVE PROVISION. The
10 bill eliminates a regulation governing disciplinary action
11 included in other provisions (Code section 162.12).

12 BILL'S PROVISIONS — INSPECTION REQUIREMENTS AND FEES. The
13 bill requires DALs to inspect each commercial establishment at
14 least once during its annual authorization period. If DALs
15 inspects a commercial establishment more than once during that
16 period, the commercial establishment must pay DALs a reinspection
17 fee equal to \$150 plus the cost of mileage (Code section
18 162.2B). The moneys are deposited into the fund (Code section
19 162.2C).

20 BILL'S PROVISIONS — INCREASE IN CIVIL PENALTIES. The bill
21 doubles the maximum amount of a civil penalty that may be
22 imposed for violating a regulation by a commercial establishment
23 operating under an issued or renewed authorization, not to
24 exceed \$1,000. The bill also doubles the maximum amount of
25 a civil penalty that may be imposed for operating without an
26 authorization, not to exceed \$2,000.