House File 2280

AN ACT

PROVIDING FOR THE TREATMENT OF ANIMALS OTHER THAN AGRICULTURAL ANIMALS, BY PROVIDING FOR REGULATION OF COMMERCIAL ESTABLISHMENTS, PROVIDING FOR FEES, PROVIDING PENALTIES, AND INCLUDING EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 162.1, Code 2009, is amended to read as follows:

162.1 ~~Policy~~ Purpose and scope.

1. The purpose of this chapter is to accomplish all of the following:

~~1.~~ *a.* ~~To insure~~ Insure that all dogs and cats handled by ~~boarding kennels, commercial kennels, commercial breeders, dealers, and public auctions~~ commercial establishments are provided with humane care and treatment ~~by regulating~~.

b. Regulate the transportation, sale, purchase, housing, care, handling, and treatment of ~~such animals~~ dogs and cats by persons ~~or organizations~~ engaged in transporting, buying, or selling them ~~and to provide~~.

c. Provide that all vertebrate animals consigned to pet shops are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by pet shops.

~~2.~~ *d.* ~~To authorize~~ Authorize the sale, trade, or adoption of only those animals which appear to be free of infectious or communicable disease.

~~3.~~ *e.* ~~To protect~~ Protect the public from zoonotic disease.

2. This chapter does not apply to livestock as defined in section 717.1 or any other agricultural animal used in agricultural production as provided in chapter 717A.

Sec. 2. Section 162.2, Code Supplement 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. *"Animal Welfare Act"* means the federal Animal Welfare Act, 7 U.S.C. ch. 54, and regulations promulgated by the United States department of agriculture and published in 9 C.F.R. ch. 1.

NEW SUBSECTION. 4B. *"Authorization"* means a state license, certificate of registration, or permit issued or renewed by the department to a commercial establishment as provided in section 162.2A.

NEW SUBSECTION. 6A. *"Commercial establishment"* or *"establishment"* means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

NEW SUBSECTION. 8A. *"Department"* means the department of agriculture and land stewardship.

NEW SUBSECTION. 9A. *"Federal license"* means a license issued by the United States department of agriculture to a person classified as a dealer or exhibitor pursuant to the federal Animal Welfare Act.

NEW SUBSECTION. 9B. *"Federal licensee"* means a person to whom a federal license as a dealer or exhibitor is issued.

NEW SUBSECTION. 10A. *"Permittee"* means a commercial breeder, dealer, or public auction to whom a permit is issued by the department as a federal licensee pursuant to section 162.2A.

NEW SUBSECTION. 15A. *"Registrant"* means a pound, animal shelter, or research facility to whom a certificate of registration is issued by the department pursuant to section 162.2A.

NEW SUBSECTION. 16A. *"State fiscal year"* means the fiscal year described in section 3.12.

NEW SUBSECTION. 16B. *"State licensee"* means any of the following:

a. A boarding kennel, commercial kennel, or pet shop to whom a state license is issued by the department pursuant to section 162.2A.

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

Sec. 3. Section 162.2, subsections 6 and 13, Code Supplement 2009, are amended to read as follows:

6. *"Commercial breeder"* means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or fewer breeding males or females is not a commercial breeder. However, a person who breeds ~~or harbors more than three~~ any number of breeding male or female greyhounds for the purposes of using them for pari-mutuel ~~racing~~ wagering at a racetrack as provided in chapter 99D shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

13. *"Pound"* ~~or *"dog pound"*~~ means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned or unwanted dogs, cats or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

Sec. 4. NEW SECTION. **162.2A Application, issuance, and renewal of authorizations.**

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

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

b. A state license for a boarding kennel, commercial kennel, or pet shop.

c. A state license or permit for a commercial breeder, dealer, or public auction. A federal licensee must apply for

and be issued either a permit or a state license in lieu of a permit.

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

3. A person must apply for the issuance or renewal of an authorization on forms and according to procedures required by rules adopted by the department. The application shall contain information required by the department, including but not limited to all of the following:

a. The person's name.

b. The person's principal office or place of business.

c. The name, address, and type of establishment covered by the authorization.

d. The person's identification number. Notwithstanding chapter 22, the department shall keep the person's tax identification number confidential except for purposes of tax administration by the department of revenue, including as provided in section 421.18.

4. The authorization expires on an annual basis as provided by the department, and must be renewed by the commercial establishment on an annual basis on or before the authorization's expiration date.

5. *a.* A commercial establishment applying for the issuance or renewal of a permit shall provide the department with proof that the person is a federal licensee.

b. The department shall not require that it must enter onto the premises of a commercial establishment in order to issue a permit. The department shall not require that it must enter onto the premises of a commercial establishment in order to renew a permit, unless it has reasonable cause to monitor the commercial establishment as provided in section 162.10C.

Sec. 5. NEW SECTION. **162.2B Fees.**

The department shall establish, assess, and collect fees as provided in this section.

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

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

b. For the issuance or renewal of a state license or permit, one hundred seventy-five dollars. However, a commercial breeder who owns, keeps, breeds, or transports a greyhound dog for pari-mutuel wagering at a racetrack as provided in chapter 99D shall pay a different fee for the issuance or renewal of a state license as provided in rules adopted by the department.

2. The department shall retain all fees that it collects under this section for the exclusive purpose of administering and enforcing the provisions of this chapter. The fees shall be considered repayment receipts as defined in section 8.2. The general assembly shall appropriate moneys to the department each state fiscal year necessary for the administration and enforcement of this chapter.

Sec. 6. Section 162.3, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

162.3 Operation of a pound — certificate of registration.

A pound shall only operate pursuant to a certificate of registration issued or renewed by the department as provided in section 162.2A. A pound may sell dogs or cats under its control, if sales are allowed by the department. The pound shall maintain records as required by the department in order for the department to ensure the pound's compliance with the provisions of this chapter.

Sec. 7. Section 162.4, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

162.4 Operation of an animal shelter — certificate of registration.

An animal shelter shall only operate pursuant to a certificate of registration issued or renewed by the department as provided in section 162.2A. An animal shelter may sell dogs or cats if sales are allowed by the department. The animal

shelter facility shall maintain records as required by the department in order for the department to ensure the animal shelter's compliance with the provisions of this chapter.

Sec. 8. NEW SECTION. **162.4A Operation of a research facility — certificate of registration.**

A research facility shall only operate pursuant to a certificate of registration issued by the department as provided in section 162.2A. The research facility shall maintain records as required by the department in order for the department to ensure the research facility's compliance with the provisions of this chapter. A research facility shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 9. Section 162.5, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

162.5 Operation of a pet shop — state license.

A pet shop shall only operate pursuant to a state license issued or renewed by the department pursuant to section 162.2A. The pet shop shall maintain records as required by the department in order for the department to ensure the pet shop's compliance with the provisions of this chapter. A pet shop shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 10. NEW SECTION. **162.5A Operation of a boarding kennel — state license.**

A boarding kennel shall only operate pursuant to a state license issued by the department as provided in section 162.2A. The boarding kennel shall maintain records as required by the department in order for the department to ensure the boarding kennel's compliance with the provisions of this chapter. A boarding kennel shall not purchase a dog or cat from a commercial establishment that does not have a valid

authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 11. Section 162.6, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

162.6 Operation of a commercial kennel — state license.

A commercial kennel shall only operate pursuant to a state license issued or renewed by the department as provided in section 162.2A. A commercial kennel shall maintain records as required by the department in order for the department to ensure the commercial kennel's compliance with the provisions of this chapter. A commercial kennel shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 12. Section 162.7, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

162.7 Operation of a dealer — state license or permit.

A dealer shall only operate pursuant to a state license, or a permit, issued or renewed by the department as provided in section 162.2A. A dealer who is a state licensee shall maintain records as required by the department in order for the department to ensure compliance with the provisions of this chapter. A dealer who is a permittee may, but is not required to maintain records. A dealer shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 13. Section 162.8, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

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

A commercial breeder shall only operate pursuant to a state license, or a permit, issued or renewed by the department as provided in section 162.2A. A commercial breeder who is a state licensee shall maintain records as required by the department in order for the department to ensure the commercial breeder's

compliance with the provisions of this chapter. A commercial breeder who is a permittee may but is not required to maintain records. A commercial breeder shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 14. NEW SECTION. **162.9A Operation of a public auction — state license or permit.**

A public auction shall only operate pursuant to a state license, or a permit, issued or renewed by the department as provided in section 162.2A. A public auction which is a state licensee shall maintain records as required by the department in order for the department to ensure the public auction's compliance with the provisions of this chapter. A public auction which is a permittee may but is not required to maintain records. A public auction shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

Sec. 15. NEW SECTION. **162.10A Commercial establishments — standard of care.**

1. *a.* A commercial establishment shall provide for a standard of care that ensures that an animal in its possession or under its control is not lacking any of the following:

(1) Adequate feed, adequate water, housing facilities, sanitary control, or grooming practices, if such lack causes adverse health or suffering.

(2) Veterinary care.

b. A commercial establishment, other than a research facility or pet shop, shall provide for the standard of care for dogs and cats in its possession or under its control, and a research facility or pet shop shall provide for the standard of care for vertebrate animals in its possession or under its control.

2. *a.* Except as provided in paragraph "*b*" or "*c*", a commercial establishment shall comply with rules that the

department adopts to implement subsection 1. A commercial establishment shall be regulated under this paragraph "a" unless the person is a state licensee as provided in paragraph "b" or a permittee as provided in paragraph "c".

b. A state licensee who is a commercial breeder owning, breeding, transporting, or keeping a greyhound dog for pari-mutuel wagering at a racetrack as provided in chapter 99D may be required to comply with different rules adopted by the department.

c. A permittee is not required to comply with rules that the department adopts to implement a standard of care as provided in subsection 1 for state licensees and registrants. The department may adopt rules regulating a standard of care for a permittee, so long as the rules are not more restrictive than required for a permittee under the Animal Welfare Act. However, the department may adopt prescriptive rules relating to the standard of care. Regardless of whether the department adopts such rules, a permittee meets the standard of care required in subsection 1, if it voluntarily complies with rules applicable to state licensees or registrants. A finding by the United States department of agriculture that a permittee complies with the Animal Welfare Act is not conclusive when determining that the permittee provides a standard of care required in subsection 1.

3. A commercial establishment fails to provide for a standard of care as provided in subsection 1, if the commercial establishment commits abuse as described in section 717B.2, neglect as described in section 717B.3, or torture as provided in section 717B.3A.

Sec. 16. NEW SECTION. **162.10B Commercial establishments — inspecting state licensees and registrants.**

The department may inspect the commercial establishment of a registrant or state licensee by entering onto its business premises at any time during normal working hours. The department may inspect records required to be maintained by the state licensee or registrant as provided in this chapter. If

the owner or person in charge of the commercial establishment refuses admittance, the department may obtain an administrative search warrant issued under section 808.14.

Sec. 17. NEW SECTION. **162.10C Commercial establishments — monitoring permittees.**

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

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

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

(1) The results of the monitoring are used in a contested case proceeding as provided in chapter 17A or in a judicial proceeding.

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

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

b. A report prepared by a person employed by the United States department of agriculture that requires a permittee to take action necessary to correct a breach of standard of care required of federal licensees by the Animal Welfare Act or of

permittees by section 162.10A. The department is not required to dedicate any number of hours to viewing or analyzing such reports.

3. When carrying out this section, the department may cooperate with the United States department of agriculture. The department shall report any findings resulting in an enforcement action under section 162.10D to the United States department of agriculture.

Sec. 18. NEW SECTION. **162.10D Commercial establishments — disciplinary actions.**

1. The department may take disciplinary action against a person by suspending or revoking the person's authorization for violating a provision of this chapter or chapter 717B, or who commits an unlawful practice under section 714.16.

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

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

4. The department shall establish the criteria for a continuing education program which shall include at least three and not more than eight hours of instruction. The department

shall provide for the program's beginning and ending dates. However, a person must complete the program in twelve months or less.

Sec. 19. Section 162.11, subsections 1 and 3, Code 2009, are amended by striking the subsections.

Sec. 20. Section 162.11, subsection 2, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

2. This chapter does not apply to a federal licensee except as provided in the following:

a. Section 162.1, subsection 2, and sections 162.2, 162.2A, 162.2B, 162.7, 162.8, 162.9A, 162.10A, 162.10C, 162.10D, 162.12A, and 162.13.

b. Section 162.1, subsection 1, but only to the extent required to implement sections described in paragraph "*a*".

c. Section 162.16 but only to the extent required to implement sections described in paragraph "*a*".

Sec. 21. Section 162.12, Code 2009, is amended to read as follows:

162.12 Denial or revocation of license or registration.

A certificate of registration may be denied to any animal shelter, pound, or ~~animal shelter~~ research facility and a state license ~~or certificate of registration~~ may be denied to any public auction, boarding kennel, commercial kennel, ~~research facility,~~ pet shop, commercial breeder, or dealer, or an existing certificate of registration or state license may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate under this chapter or if the feeding, watering, cleaning, and housing practices at the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, research facility, or those practices by the commercial breeder or dealer, are not in compliance with this chapter or with the rules adopted pursuant to this chapter. The premises of each registrant or state licensee ~~or certificate holder~~ shall be open for inspection during normal business hours.

Sec. 22. NEW SECTION. **162.12A Civil penalties.**

The department shall establish, impose, and assess civil penalties for violations of this chapter. The department may by rule establish a schedule of civil penalties for violations of this chapter. All civil penalties collected under this section shall be deposited into the general fund of the state.

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

b. This paragraph applies to a commercial establishment that violates a standard of care involving housing as provided in section 162.10A. The departmental official who makes a determination that a violation exists shall provide a corrective plan to the commercial establishment describing how the violation will be corrected within a compliance period of not more than fifteen days from the date of approval by the official of the corrective plan. The civil penalty shall not exceed five hundred dollars for the first day of the violation. After that day, the department shall not impose a civil penalty for the violation during the compliance period. The department shall not impose an additional civil penalty, unless the commercial establishment fails to correct the violation by the end of the compliance period. If the commercial establishment fails to correct the violation by the end of the compliance period, each day that the violation continues shall be deemed a separate offense.

2. A commercial establishment that does not operate pursuant to an authorization issued or renewed under this chapter is subject to a civil penalty of not more than one thousand dollars, regardless of the number of animals possessed or

controlled by the commercial establishment, for violating this chapter. Each day that a violation continues shall be deemed a separate offense.

Sec. 23. Section 162.13, Code 2009, is amended to read as follows:

162.13 ~~Penalties~~ Criminal penalties — confiscation.

1. ~~Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, research facility, or public auction, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration is~~ A person who operates a commercial establishment without an authorization issued or renewed by the department as required in section 162.2A is guilty of a simple misdemeanor and each day of operation is a separate offense.

2. The failure of ~~any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer, to adequately house, feed, or water dogs, cats, or vertebrate animals in the person's or facility's possession or custody~~ a person who owns or operates a commercial establishment to meet the standard of care required in section 162.10A, subsection 1, is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed as provided by rules which shall be adopted by the department pursuant to chapter 17A. The rules shall provide for the destruction of an animal by a humane method, including by euthanasia.

3. The failure of a person who owns or operates a commercial establishment to meet the requirements of this section is also cause for the suspension or revocation ~~or suspension of license or registration after public hearing~~ of the person's authorization as provided in section 162.10D. ~~The commission of an act declared to be an unlawful practice under section 714.16 or prohibited under chapter 717 or 717B, by~~

~~a person licensed or registered under this chapter is cause for revocation or suspension of the license or registration certificate.~~

4. Dogs, cats, and other ~~vertebrates~~ vertebrate animals upon which euthanasia is permitted by law may be destroyed by a person subject to this chapter or chapter 169, by a humane method, including euthanasia, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

5. It is unlawful for a dealer to knowingly ship a diseased animal. A dealer violating this ~~paragraph~~ subsection is subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this ~~paragraph~~ subsection is a separate offense.

Sec. 24. Section 162.16, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

162.16 Rules.

The department shall adopt rules and promulgate forms necessary to administer and enforce the provisions of this chapter.

Sec. 25. Section 717B.1, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. *"Department"* means the department of agriculture and land stewardship.

Sec. 26. REPEAL. Sections 162.9, 162.10, and 162.18, Code 2009, are repealed.

Sec. 27. CURRENT DEPARTMENTAL RULES. This Act does not diminish the authority of the department of agriculture and land stewardship to regulate different types of commercial establishments as provided in 21 IAC ch. 67.

Sec. 28. ISSUANCE OF PERMITS. This Act does not require a commercial establishment that has been issued or renewed a certificate of registration to be issued a permit earlier than required in section 162.2A for the renewal of a permit. The person shall hold the certificate of registration in the same manner as a permit pursuant to this Act.

Sec. 29. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2280, Eighty-third General Assembly.

MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2010

CHESTER J. CULVER
Governor