

IOWA ANIMAL CRUELTY LAWS

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Introduction

The criminal animal protection laws of Iowa consist of two main chapters, addressing the abuse and neglect of non-livestock and livestock animals, respectively. The state has various additional criminal provisions including laws for the prevention of animal fighting and for the care of animals in commercial establishments. This digest presents each of these animal protection laws along with the relevant procedural laws or defenses, where available. Following each law is case law from Iowa, or from other states with similar statutes where little or no Iowa cases are available.

The digest begins with the laws regarding Injury to Animals other than Livestock, which addresses animal abuse, neglect, torture, and abandonment of mainly companion animals. Animal abuse covers the intentional injury of an animal owned by another person, while neglect covers the injury of an animal in one's own care and in confinement. Animal torture requires a showing of depraved or sadistic intent.

The digest then addresses the laws regarding Injury to Livestock. Livestock were excluded from the definition of "animal" in Iowa's animal cruelty laws in 1994. These sections deal exclusively with livestock and exempt practices consistent with customary farming practices. Included provisions involve livestock abuse, livestock neglect, and humane slaughter practices under the Iowa Meat and Poultry Inspection Act.

The next section presents additional animal protection laws including: animal contest events such as dog fighting and cock fighting, sexual conduct involving animals, pets as prizes, and the care of animals in commercial establishments such as pet stores and kennels. The final section presents the Iowa addresses the procedural issues of animal rescue and disposition of the animals, as well as statutes setting forth the sentencing for felonies and misdemeanors.

Overview of Statutory Provisions and Case Law

- 1. Injury to Animals other than Livestock:** IOWA CODE ANN. § 717B
- 2. Injury to Livestock:** IOWA CODE ANN. § 717 & 189A.19
- 3. Animal Contest Events:** IOWA CODE ANN. § 717D
- 4. Bestiality:** IOWA CODE ANN. § 717C
- 5. Pets as Prizes:** IOWA CODE ANN. § 717D
- 6. Care of Animals in Commercial Establishments:** IOWA CODE ANN. § 162
- 7. Wild Animals:** IOWA CODE ANN. §§ 717F.3, 717B.6 & 7171F.13
- 8. Law Enforcement Policies and Penalties:** IOWA CODE ANN. §§ 717B.5, 717B.4 & 902.9

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1. INJURIES TO ANIMALS OTHER THAN LIVESTOCK

Chapter 717B of the Iowa Code contains the general criminal provisions for injuries to animals. The statutory definition of animal excludes livestock and also excludes any “game, fur-bearing animal, fish, reptile, or amphibian unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian, and any nongame considered a ‘nuisance.’” Thus, the statutes deal mainly with the treatment of pets. Animal abuse covers the injury intentional injury of an animal owned by another person, while neglect covers the injury of an animal in one’s own care and in confinement. Animal torture requires a showing of depraved or sadistic intent. Also relevant to these charges are the defenses for killing tagged or untagged dogs, and a special law regarding intentional injury to a police service dog.

IOWA CODE ANN. § 717B.2 (2012). Animal Abuse

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal² owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. This section shall not apply to any of the following:

- (1) A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.³
- (2) A person acting to carry out an order issued by a court.
- (3) A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
- (4) A person acting in order to carry out another provision of law which allows the conduct.
- (5) A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.⁴
- (6) A person acting to protect the person’s property from a wild animal as defined in section 481A.1.
- (7) A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
- (8) A person reasonably acting to protect the person’s property from damage caused by an unconfined animal.
- (9) A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
- (10) A local authority⁵ reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

² “‘Animal’ means a nonhuman vertebrate. However, “animal” does not include any of the following: (a) Livestock, as defined in section 717.1; (b) Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian; or (c) Any nongame species declared to be a nuisance pursuant to section 481A.42.” IOWA CODE ANN. § 717B.1. (2012).

³ See page 4.

⁴ “‘Wild animal’ means a wild mammal, bird, fish, amphibian, reptile, or other wildlife found in this state, whether game or nongame, migratory or nonmigratory, the ownership and title to which is claimed by this state.” IOWA CODE ANN. § 481A.1/36 (2012).

⁵ “‘Local authority’ means a city as defined in section 362.2 or a county as provided in chapter 331.” IOWA CODE ANN. § 717B.1 (2012).

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(11) A research facility, as defined in section 162.2⁶, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

Applicable Case Law:

***State v. McAlister*, No. 00-0997, 2001 WL 427592 (Iowa Ct. App. 2001).**

Facts: The defendant was convicted of animal abuse for intentionally hitting and injuring a german shepherd with his vehicle. On appeal from his conviction he contends that his due process rights were violated when a deputy destroyed photographs of the crime scene (depicting vehicle tracks and dog prints in the gravel) prior to trial, and that his conviction was not supported by sufficient evidence.

Holding: The court affirmed his conviction, stating that evidence is substantial only if it could “convince a rational trier of fact the defendant is guilty of the crime charged beyond a reasonable doubt,” and held that there was enough evidence for a jury to find him guilty.

IOWA CODE ANN. §351.27 (2012). Right to kill tagged dog

It shall be lawful for any person to kill a dog, wearing a collar with a rabies vaccination tag attached, when the dog is caught in the act of chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

Applicable Case Law:

***State v. West*, 741 N.W.2d 823 (Iowa Ct. App., 2007).**

Facts: Defendant raised deer on his property for sale to petting zoos, game preserves, and for breeding purposes. He saw two of his neighbor’s dogs running along his fence and shot and killed both dogs. Both dogs had their proper shots and tags. He was acquitted of both his animal abuse and criminal mischief charges.

Holding: Animal abuse charge reversed when I.C.A §351.27 was introduced as a complete defense on appeal.

IOWA CODE ANN. §351.26 (2012): Right and duty to kill an untagged dog

It shall be lawful for any person, and the duty of all peace officers within their respective jurisdictions unless such jurisdiction shall have otherwise provided for the seizure and impoundment of dogs, to kill any dog for which a rabies vaccination tag is required, when the dog is not wearing a collar with rabies vaccination tag attached.

⁶ “‘Research facility’ means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in this state concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.” IOWA CODE ANN. § 162.2/24 (2012).

Applicable Case Law:

***State v. Shaffer*, 533 N.W.2d 530 (Iowa 1995).**

Facts: It appeared from the evidence that defendant was severely angered when her former boyfriend married another woman. After threatening to poison that woman's dog, defendant mixed antifreeze with hamburger, unlawfully entered upon the property of the dog's owner, and left the poisoned mixture in the vicinity of the dog's kennel. Defendant was convicted of animal abuse for maliciously administering poison to an untagged dog.

Holding: Means used to kill an untagged dog prevented defendant from using §351.26 defense.

***City of Davenport v. Claeys* 119 N.W.2d 755 (Iowa 1963).**

Facts: Small dog killed for barking and worrying defendant's livestock. Discharge of a firearm is prohibited within city limits.

Holding: Dog did no harmful act and killing the dog could not justifiably be permitted by prohibited discharge of firearms within city limits. Ordinance prohibiting the discharge of a firearm within city limits led to fine and costs for farmer who shot an untagged dog on his property while standing outside of his house; I.C.A §351.26 could not be used to override the charge.

***Mendenhall v. Struck*, 224 N.W. 95 (Iowa 1929).**

****Pre-dates enactment of section 351.26**

Facts: Defendant entered plaintiff's premises on three occasions to drive out animals and maliciously shoot them, including five unweaned pups that were not yet licensed or tagged.

Holding: Plaintiff whose home was invaded by defendant for purpose of driving out and killing plaintiff's dogs had grounds for recovery of exemplary damages, though dogs killed were unlicensed.

IOWA CODE ANN § 351.36 (2012). Enforcement

Local health and law enforcement officials shall enforce the provisions of sections 351.33 to 351.43 relating to vaccination and impoundment of dogs. Such public officials shall not be responsible for any accident or disease of a dog resulting from the enforcement of the provisions of said sections.

No Applicable Case Law.

IOWA CODE ANN. § 717B.3 (2012). Animal neglect

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

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2. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal neglect which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Applicable Case Law:

State v. Liendo, 797 N.W.2d 624 (Iowa Ct. App., 2011).

Facts: Defendant appealed a sentence of one year in county jail for animal neglect after he killed a pet pit bull puppy by throwing it against a wall, contending that he had not met the requirements of “impounding” or “confining” the animal to constitute neglect. He appealed on the basis of ineffective assistance of counsel, because the counsel had him plead guilty to the neglect charge.

Holding: The court on appeal determined that there is no requirement in the statute that an animal be confined or impounded beyond being kept in a home with no means to leave the home without human intervention. The statute applies if an animal is kept in “an enclosure or within limits,” “enclose[d] within bounds,” or “shut or [kept] in.” It would be sufficient to show the puppy was kept or confined within the house, and could not leave the house without human help.

State v. Wilson, 772 N.W.2d 268 (Iowa Ct. App. 2009).⁷

Facts: Defendant stabbed and killed his dog with a samurai sword.

Holding: There was insufficient evidence to support the charge of animal neglect. There was no separate incident of confining or impounding. It was therefore incongruous to convict defendant for animal torture and animal neglect for the same act.

State v. Rudolph, 796 N.W.2d 455 (Iowa Ct. App. 2003).

Facts: Rudolph was caring for his sister’s dog during her incarceration, was aware the dog was ill and that medicine had been prescribed for treatment of the illness and he failed to give medicine to the dog. He took no alternative action to aid the dog. The dog was later discovered in a decomposed state in its outdoor kennel. Key evidence of neglect: Dog confined in outdoor kennel, medicine considered “necessary sustenance.”

Holding: Defendant appealed from a conviction of animal neglect claiming insufficient evidence but his conviction was sustained.

State v. Pontius, No. 00-1693, 2002 WL 31882852 (Dec. 30, 2002).

Facts: Defendant paid little attention to his dogs which he kept in a pen in his backyard. They had puppies that were allowed to roam. Two of the puppies were hit by cars on separate

⁷ See notes on torture charge on page 7.

occasions. Defendant did nothing to help the dogs in either incident and one of the puppies had to be euthanized.

Holding: Evidence was sufficient to support defendant's conviction for animal neglect as a simple misdemeanor, but not as a serious misdemeanor, where State offered no evidence that any of defendant's dogs suffered serious injury or death from lack of food or water.

Grundy County v. Moeller, No. 98-1622, 1999 WL 823640 (Iowa App. 1999).

Facts: Defendant raised dogs for resale to pet stores and breeders. The deputy sheriff seized 153 dogs and one cat when he entered with a search warrant and found deprivation of food, water, and shelter. The deputy along with a member of the local Humane Society and a licensed veterinarian found some dogs were thin from malnutrition and some had distended stomachs evidencing the presence of tape or round worms.

Holding: The court held that the evidence of neglect was overwhelming: moldy food, some had no water, and there was evidence that some were eating their own waste. Inadequate shelter from heat, inadequate bedding, bad ventilation, and inadequate light. Vet testimony stating that animals were at risk in one way or another and if any particular animal was not showing the immediate signs of neglect, it was only a matter of time before those signs would appear.

City of Dubuque v. Fancher, 590 N.W.2d 493 (Iowa 1999).⁸

Johnson County v. Kriz, 582 N.W.2d 759 (Iowa 1998).⁹

IOWA CODE ANN. § 717B.3A (2012). Animal Torture

1. A person is guilty of animal torture, regardless of whether the person is the owner of the animal, if the person inflicts upon the animal severe physical pain with a depraved or sadistic intent to cause prolonged suffering or death.
2. This section shall not apply to any of the following:
 - (a) A person acting to carry out an order issued by a court.
 - (b) A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
 - (c) A person carrying out a practice that is consistent with animal husbandry practices.
 - (d) A person acting in order to carry out another provision of law which allows the conduct.
 - (e) A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
 - (f) A person acting to protect the person's property from a wild animal as defined in section 481A.1.
 - (g) A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
 - (h) A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

⁸ See Section 8 on "Law Enforcement Practices and Policies."

⁹ See Section 8 on "Law Enforcement Practices and Policies."

- (i) A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
- (j) A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
- (k) A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

3. a. The following shall apply to a person who commits animal torture:

(1) *For the first conviction, the person is guilty of an aggravated misdemeanor.* The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the evaluation and treatment shall be paid by the person. In addition, the sentencing order shall provide that the person complete a community work requirement, which may include a work requirement performed at an animal shelter or pound, as defined in section 162.2¹⁰, according to terms required by the court.

(2) *For a second or subsequent conviction, the person is guilty of a class "D" felony.* The sentencing order shall provide that the person submit to psychological evaluation and treatment according to terms required by the court. The costs of the psychological evaluation and treatment shall be paid by the person.

b. The juvenile court shall have exclusive original jurisdiction in a proceeding concerning a child who is alleged to have committed animal torture, in the manner provided in section 232.8. The juvenile court shall not waive jurisdiction in a proceeding concerning an offense alleged to have been committed by a child under the age of seventeen.

Applicable Case Law:

State v. Wilson, 772 N.W.2d 268 (Iowa Ct. App. 2009).

Facts: The defendant chopped and stabbed his dog to death with a samurai sword. The puppy was yelping in pain for up to nine minutes and afterwards, defendant exhibited a "remorseless demeanor."

Holding: Appellate court upheld jury's animal torture verdict. When viewing the evidence in the light most favorable to the State, a rational trier of fact could have found defendant acted with depraved or sadistic intent to cause the animal prolonged suffering or death.

IOWA CODE ANN. § 717B.8. Abandonment of Cats and Dogs – Penalties.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody

¹⁰ "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals." IOWA CODE ANN. § 162.2(3).

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or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

No Applicable Case Law.

IOWA CODE ANN. § 717B.9. Injury or interference with a police service dog

1. A person who knowingly, and willfully or maliciously torments, strikes, administers a nonpoisonous desensitizing substance to, or otherwise interferes with a police service dog, without inflicting serious injury on the dog, commits a serious misdemeanor.
2. A person who knowingly, and willfully or maliciously does any of the following commits a class “D” felony:
 - a. Tortures a police service dog.
 - b. Injures, so as to disfigure or disable, a police service dog.
 - c. Sets a booby trap device for purposes of injuring, so as to disfigure or disable, or killing a police service dog.
 - d. Pays or agrees to pay a bounty for purposes of injury, so as to disfigure or disable, or killing a police service dog.
 - e. Kills a police service dog.
 - f. Administers poison to a police service dog.
3. As used in this section, “police service dog” means a dog used by a peace officer or correctional officer in the performance of the officer’s duties, whether or not the dog is on duty.
4. This section does not apply to a peace officer or veterinarian who terminates the life of such a dog for the purpose of relieving the dog of undue pain or suffering, or to a person who justifiably acts in defense of self or another.

No Applicable Case Law.

2. INJURY TO LIVESTOCK

Livestock were excluded from the definition of animal in Iowa's animal cruelty laws in 1994. These sections deal exclusively with livestock and exempt practices consistent with customary farming practices. For the purposes of these provisions “livestock” is defined as any “animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer¹¹; or poultry.” The first statute deals with abuse to one’s own or another’s livestock. The second statute is for livestock neglect, which occurs when livestock is deprived of adequate care or sustenance.¹² Included in the same section are provisions for rescue of neglected livestock by

¹¹ “‘Farm deer’ means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; part of the virginianus species of the odocoileus genus, commonly referred to as whitetail; part of the hemionus species of the odocoileus genus, commonly referred to as mule deer; or part of the nippon species of the cervus genus, commonly referred to as sika.” IOWA CODE ANN. § 170.1(4)(a).

¹² “‘Sustenance’ means food, water, or a nutritional formulation customarily used in the production of livestock.” IOWA CODE ANN. § 717.1(8).

a law enforcement officer, court orders and liens for animals in need of immediate sustenance, and disposition of neglected livestock. The final statute included here comes from the separate Iowa Meat and Poultry Inspection Act, and it addressed humane slaughtering practices.

IOWA CODE ANN. § 717.1A. Livestock Abuse

A person is guilty of livestock abuse if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.
2. A person acting to carry out an order issued by a court.
3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.
4. A person acting in order to carry out another provision of law which allows the conduct.
5. A person reasonably acting to protect the person's property from damage caused by stray livestock.
6. A person reasonably acting to protect a person from injury or death caused by stray livestock.
7. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

No Applicable Case Law.

IOWA CODE ANN. § 717.2. Livestock Neglect

1. A person who impounds or confines livestock, in any place, and does any of the following commits the offense of livestock neglect:
 - a. Fails to provide livestock with care consistent with customary animal husbandry practices.
 - b. Deprives livestock of necessary sustenance.
 - c. Injures or destroys livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.
2. A person who commits the offense of livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of livestock neglect which results in serious injury to or the death of livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.
3. This section does not apply to a research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

Applicable Case Law:

***State v. Campbell*, 760 N.W.2d 210, (Iowa Ct. App. 2008).**

Facts: Defendant kept 80 to 100 cattle in a fenced property in addition to 10 horses, and was charged with animal neglect after a neighbor called to report dead cattle and officers and a veterinarian saw several dead calves and many malnourished and lethargic cows. Officer and Vet observed that the grass in the pasture was short, sparse, and insufficient to sustain the cattle. Both testified that they saw no hay rings or feed bunks and no indication the cattle had recently been given hay or gluten. The vet reported that the overall body conditions of the cattle in most cases scored only a two out of nine, with some cattle scoring only a one out of nine. This score “reflects little evidence of fat deposits present and muscle wasting.” Because the dead cattle had begun to decompose, Whitney could not determine with absolute certainty the cause of death, but he believed the most probable cause of death was lack of nutrition. However, he testified that he could say with one hundred percent certainty that the thinness of the cows was caused by malnutrition and underfeeding. The defendant testified that he fed the cattle two bales of hay and 500 pounds of gluten each day. However, Campbell produced receipts showing that between March 23 and April 17, he bought only eighteen bales of hay and 4200 pounds of gluten.

Holding: Campbell pleaded insufficient evidence but defendant’s evidence was sufficient to establish guilty beyond a reasonable doubt. Also, even though Campbell testified that he only had receipts for some of his purchases, the district court was free to reject this testimony as it was inconsistent with the condition of the cattle and much of the other evidence.

***State v. Wells*, 629 N.W.2d 346 (Iowa 2001).**

Facts: Defendant convicted of two counts of livestock neglect in connection with deaths of two horses at his horse-boarding facility, after a deputy found the horses dead on his property clearly having died from malnutrition.

Holding: Under livestock neglect statute, when neglect is uninterrupted or continuous, results in serious injury or death, and involves multiple livestock, only one conviction can result. Photos of the carcasses were admissible evidence. A warrant and seizure of the carcasses by the county were found to be proper under appeal, but defendant was convicted of only one count of neglect because the deaths appeared to be the result of the same one period of neglect.

***State v. Walker*, 236 N.W.2d 292 (Iowa 1975).**

Facts: Defendants were convicted for neglecting 130 cattle that they cared for on their mother’s farm and failed to provide with food, water, and shelter. A witness detailed how the calves were fed and opined ‘the calves on this farm were in excellent condition.’

Holding: On appeal, court that evidence was sufficient to sustain guilty verdicts, and that trial court did not err in sustaining hearsay objection to question seeking to elicit names of county deputies who allegedly reported defendants’ violations; Evidence allowed included photographs of the dead and dying cattle, and the court refused to allow one of defendants to testify as expert witness. Additionally, defendants were not erroneously deprived of the expert testimony testifying that certain calves were fed ‘adequately’. The witness detailed how the calves were fed and opined ‘the calves on this farm were in excellent condition, so the issue entered substantively.’

IOWA CODE ANN. § 717.2A. Rescue of Neglected Livestock

1. a. A law enforcement officer¹³ may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.
- b. The officer may enter onto property of a person to rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.
- c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

- (a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.
- (b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:
 - (i) The name and address of the local authority.
 - (ii) A description of the livestock subject to rescue.
 - (iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.
 - (iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected, or the person is taking immediate measures required to rehabilitate the livestock.
- (c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian

¹³ . “‘Law enforcement officer’ means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.” IOWA CODE ANN. § 717B.1(5).

licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance¹⁴ of the neglected livestock. The local authority may contract with a livestock care provider for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

3. The livestock shall be subject to disposition pursuant to section 717.5.

Applicable Case Law:

***Linn County v. Andrews*, 739 N.W.2d 504 (Iowa App. Aug 22, 2007).**

Facts: Defendant was charged with livestock neglect for a variety of animals after the local department executed a search warrant accompanied by an animal control officer and cruelty investigator for the Cedar Valley Humane Society and two veterinarians. Based on their observations at the Andrews' property, it was determined that the animals at the property had not received adequate care; they did not have sufficient water and most did not have sufficient food. The deputies seized horses, goats, sheep, pigs, dogs, and cats and filed for disposition of the animals and for Andrews to pay for their care.

Holdings: Where 717.2A procedures were not properly followed in the rescue of the animals, the court could not properly assess the maintenance expenses owed by defendant. Neglect charged affirmed, verdict on cost reimbursement remanded.

***McClendon v. Story County Sheriff's Dept.*, 312 F.Supp.2d 1146 (S.D. Iowa, 2004).**

Facts: Defendant contended that the officials should have taken only the horses that were sick due to strangles and in need of immediate care.

Holding: County officials could not be held responsible under an § 1983 action alleging that county seized her horses in violation of her rights under United States and Iowa constitutions.

¹⁴ “Maintenance” means to provide on-site or off-site care to neglected livestock. IOWA CODE ANN. § 717.1(7).

Because the warrant did not identify exactly how many horses should be seized, but instead described the horses to be seized using disease, wellness, and body condition criteria, it was imminently reasonable for the Officers to rely upon the professional opinions of a concerned veterinarian in determining which horses to seize.

IOWA CODE ANN. § 717.3. Livestock in immediate need of sustenance--court order

1. This section applies only to livestock which are cattle, sheep, swine, or poultry.
2. For purposes of this section, “interested person” means all of the following:
 - a. An owner of the livestock.
 - b. A person caring for the livestock, if different from the owner of the livestock.
 - c. A person holding a perfected agricultural lien or security interest in the livestock under chapter 554.
3. The department¹⁵ may determine that some or all of the livestock kept by a person are in immediate need of sustenance. Upon making the determination the department may file a petition with a district court in a county where some or all of the livestock are kept requesting the court to issue an order to provide sustenance of the livestock. The petition may be made separately or with a petition filed pursuant to section 717.5. The petition must at least include all of the following:
 - a. A statement signed by a veterinarian licensed pursuant to chapter 169 stating that the livestock are in immediate need of sustenance.
 - b. The address of each location where the livestock are kept.
 - c. A brief description of the livestock.
 - d. The name and address of each interested person, if known.
 - e. The name and address of each qualified person appointed by the department to provide sustenance to the livestock.
4. Upon receiving the petition, the court may do any of the following:
 - a. Notify any interested person that the petition has been filed with the court. The notification must be made in writing and may be delivered by ordinary, certified, or restricted certified mail by United States postal service; delivered by a common carrier; or transmitted by electronic mail.
 - b. Hold a hearing to determine whether the livestock are in immediate need of sustenance.
5. If the court determines that the livestock are in immediate need of sustenance, the court shall issue an order which at least declares all of the following:
 - a. That the livestock are in immediate need of sustenance.
 - b. That the department shall assume supervision of and provide for the sustenance of the livestock as provided in section 717.4.
 - c. That a lien is created attaching to the livestock and associated proceeds and products as provided in section 717.4.
6. The department shall assume supervision of the livestock as provided in the court order. The department may directly provide for the sustenance of the livestock or appoint a qualified person to provide for such sustenance.

¹⁵ “Department” means the department of agriculture and land stewardship. IOWA CODE ANN. § 202C.1(2).

Applicable Case Law:

***State v Walker*, 236 NW2d 292 (Iowa 1975).**

Facts: Defendant's cattle were seized following a state livestock inspector's findings that the cattle were malnourished and not cared for during cold.

Holding: Frozen water and no feed for malnourished cattle, as established by testimony of State's witnesses, inspector, and state veterinarian was sufficient evidence to allow for the legal seizure of the cattle.

IOWA CODE ANN. § 717.4 Livestock in immediate need of sustenance—lien

1. This section applies to a lien created by a court order entered pursuant to section 717.3 or 717.5. The court ordered lien is an agricultural lien subject to chapter 554 except as otherwise provided in this section.
2. The court ordered lien shall be for the benefit of the department. The amount of the lien shall not be more than for expenses incurred in providing sustenance to the livestock pursuant to section 717.3 and providing for the disposition of the livestock pursuant to section 717.5.
3. The court ordered lien shall attach to the livestock, identifiable proceeds from the disposition of the livestock, and products from the livestock in the products' unmanufactured states.
4. The court ordered lien becomes effective on the date that the court order is entered. To perfect the lien, the department must file a financing statement in the office of the secretary of state as provided in sections 554.9308 and 554.9310 on or after but not later than twenty days after the effective date of the lien. For purposes of chapter 554, article 9, the department is a secured party; the owner of the livestock is a debtor; and the livestock and associated proceeds and products as provided in subsection 3 are the collateral.
5. The court ordered lien that is perfected under this section is superior to and shall have priority over a conflicting lien or security interest in the livestock and associated proceeds and products as provided in subsection 3, including a lien or security interest that was perfected prior to the perfection of the court ordered lien.

No Applicable Case Law.

IOWA CODE ANN. § 717.4A. Livestock in immediate need of sustenance--livestock remediation fund

The department may utilize the moneys deposited into the livestock remediation fund pursuant to section 459.501 to pay for any expenses associated with providing sustenance to or the disposition of the livestock pursuant to a court order entered pursuant to section 717.3 or 717.5. The department shall utilize moneys from the fund only to the extent that the department determines that expenses cannot be timely paid by utilizing the available provisions of sections 717.4 and 717.5. The department shall deposit any unexpended and unobligated moneys in the fund. The department shall pay to the fund the proceeds from the disposition of the livestock and associated products less expenses incurred by the department in providing for the sustenance and disposition of the livestock, as provided in section 717.5.

No Applicable Case Law.

IOWA CODE ANN. § 717.5. Disposition of neglected livestock

1. a. A court shall order the disposition of livestock neglected as provided in section 717.2 or livestock in immediate need of sustenance and associated products as provided in sections 717.3 and 717.4 in accordance with this section.

(1) A petition may be filed by a local authority or a person owning or caring for the livestock pursuant to section 717.2.

(2) A petition may be filed by the department. The court shall notify interested persons in the same manner as provided in section 717.3. The petition may be filed separately or with a petition filed pursuant to section 717.3.

b. The matter shall be heard by the court within ten days from the filing of the petition.

(1) For livestock alleged to be neglected under section 717.2, the court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the livestock for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security.

(2) For livestock alleged to be in immediate need of sustenance under section 717.3, the court may continue the hearing for up to forty days upon petition by the department. The department may file and the court may grant one or more subsequent continuances each for up to forty days. The department is not required to post a bond or other security.

c. Notwithstanding paragraph “b”, the court shall order the immediate disposition of livestock if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if livestock has been neglected under section 717.2 for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding under section 717.2, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717.2.

3. A court may order a person owning the livestock neglected under section 717.2 or in immediate need of sustenance under section 717.3 to pay an amount associated with expenses associated with the livestock as follows:

a. (1) For livestock neglected under section 717.2, the amount shall not be more than for expenses incurred by the local authority in maintaining and disposing the neglected livestock rescued pursuant to section 717.2A, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to subsection 1 shall be used to reimburse the local authority.

(2) For livestock in immediate need of sustenance under section 717.3, the amount shall not be more than for expenses incurred by the department in providing sustenance to and disposing of the neglected livestock as provided in section 717.3 and this section. The amount paid to the department shall be sufficient to allow the department to repay the livestock remediation fund as provided in section 459.501.

b. If more than one person has a divisible ownership interest in the livestock, the amount required to be paid shall be prorated based on the percentage of interest in the livestock owned by each person. The moneys shall be paid to the local authority or department incurring the expense as provided in paragraph “a”. The amount shall be subtracted from proceeds owed to the

owner or owners of the livestock, which are received from the sale of the livestock ordered by the court.

c. (1) Moneys owed to the local authority from the sale of neglected livestock that have been rescued by a local authority pursuant to section 717.2A shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the livestock. Moneys owed to the department from the sale of livestock in immediate need of sustenance and associated products shall be paid to the department according to its priority status as a lienholder as provided in section 717.4.

(2) If an owner of the livestock is a landowner, the local authority may submit an amount of the moneys owed to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the livestock. If the livestock owner owns a percentage of the livestock, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the livestock. That amount shall be prorated among the landowners based on the percentage of interest in the livestock attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected livestock ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.¹⁶

No Applicable Case Law.

IOWA CODE ANN. § 189A.18 Humane Slaughter Practices¹⁷

Every establishment¹⁸ subject to the provisions of this chapter engaged in the slaughter of bovine, porcine, or ovine animals or farm deer shall slaughter all such animals in an approved humane slaughtering method. For purposes of this section an approved humane slaughtering method shall include and be limited to slaughter by shooting, electrical shock, captive bolt, or use of carbon dioxide gas prior to the animal being shackle hoisted, thrown, cast or cut; however, the slaughtering, handling or other preparation of livestock in accordance with the ritual requirements of the Jewish or any other faith that prescribes and requires a method whereby slaughter becomes effected by severance of the carotid arteries with a sharp instrument is hereby designated and approved as a humane method of slaughter under the law.

No Applicable Case Law.

¹⁶ “‘Euthanasia’ means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.” CITE.

¹⁷ Included in Iowa Meat and Poultry Inspection Act, § 189A.1 – 22

¹⁸ “‘Establishment’ means all premises where animals or poultry are slaughtered or otherwise prepared, either for custom, resale, or retail, for food purposes, meat or poultry canneries, sausage factories, smoking or curing operations, restaurants, grocery stores, brokerages, cold storage plants, and similar place.” IOWA CODE ANN. § 189A.2.6

3. ANIMAL CONTEST EVENTS

IOWA CODE ANN. § 717D.2. Prohibitions-Contest Events

A person shall not do any of the following:

1. Own or operate an establishment¹⁹ located in this state in which a contest event²⁰ occurs or is to occur.
2. Act as a promoter of a contest event, regardless of whether the contest event occurs in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the promotion of a contest event shall be deemed to act as a promoter.
3. Possess or own an animal²¹ engaged or to be engaged in a contest event conducted in this state or another state.
4. Be a party to a commercial transaction for the transfer of an animal engaged or to be engaged in a contest event conducted in this state or another state, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.
5. Act as a trainer of an animal engaged or to be engaged in a contest event conducted in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the training of an animal engaged or to be engaged in a contest event shall be deemed to act as a trainer.
6. Possess, own, or manufacture a contest device²².
7. Be a party to a commercial transaction for the transfer of a contest device, including but not limited to a transaction by purchase or sale, barter, trade, or an offer involving such a transaction.
8. Act as a transporter moving an animal engaged or to be engaged in a contest event in this state.
9. Gambling at a contest event conducted in this state, including but not limited to wagering on the outcome of a contest involving animals.
10. Act as a spectator of a contest event conducted in this state, regardless of whether the person paid admission to witness the contest event.

Applicable Case Law:

***State v. Todd* 468 N.W.2d 462 (Iowa, 1991).**

(Decided under previous “cockfighting statute” I.C.A. section 725.11).

¹⁹ “‘Establishment’ means the location where a contest event occurs or is to occur, regardless of whether an animal is present at the establishment or the contest animal is witnessed by means of an electronic signal transmitted to the location.” IOWA CODE ANN. § 717D.1..

²⁰ “‘Contest event’ means a function organized for the entertainment or profit of spectators where an animal is injured, tormented, or killed, including but not limited to a bull involved in a bullfight or bull baiting, a bear involved in bear baiting, a chicken involved in cock fighting, or a dog involved in dog fighting.” IOWA CODE ANN. § 717D.1.

²¹ “‘Animal’ means a nonhuman vertebrate.” IOWA CODE ANN. § 717D.1..

²² “‘Contest device’ means equipment designed to enhance an animal's entertainment value during training or a contest event, including a device to improve the contest animal's competitiveness. A contest device includes but is not limited to an implement designed to be attached in place of a natural spur of a cock or other fighting bird in order to enhance the bird's fighting ability, and which is commonly referred to as a spur or gaff.” IOWA CODE ANN. § 717D.1.

Facts: Defendant was convicted of cockfighting and because he was actually “engaged or assisting in” the cockfight, on appeal he could not challenge the law for vagueness regarding the prohibitions for persons “connected with or interest in” the fighting.

Holding: The court affirmed his judgment, also holding that no advance notice needed to be given by plain clothes officers who opened barn door and walked in to look around before execution of warrant.

IOWA CODE ANN. § 717D.3. Exceptions

1. This chapter does not apply to a function other than a contest event. A contest event does not involve any of the following events:

- a. A race, including but not limited to a race regulated under chapter 99D.
- b. A fair event as defined in section 174.1.
- c. A rodeo or rodeo event.
- d. A 4-H function.
- e. A hunting or fishing party.
- f. A field meet or trial in which the skill of dogs is demonstrated in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal.
- g. The raising or selling of game or fur-bearing animals as provided in chapter 481A.

2. This chapter shall not apply to any of the following:

- a. An action to carry out an order issued by a court.
- b. An action by a licensed veterinarian practicing veterinary medicine as provided in chapter 169.
- c. An action that is consistent with animal husbandry practices.
- d. An action allowed in order to carry out another provision of law which allows the action.
- e. The taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
- f. An action to protect the person's property from a wild animal as defined in section 481A.1.
- g. An action to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
- h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.
- i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
- j. A local authority reasonably acting to destroy an animal if, at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
- k. A research facility, as defined in section 162.2, provided that the research facility performs functions within the scope of accepted practices and disciplines associated with the research facility.

No Applicable Case Law.

IOWA CODE ANN. § 717D.4. Penalties

1. Except as provided in section 717D.2, subsection 10, a person who violates a provision of this chapter commits a class “D” felony.
2. A person who violates section 717D.2, subsection 10, by acting as a spectator of a contest event conducted in this state commits the following:
 - a. An aggravated misdemeanor for the first offense.
 - b. A class “D” felony for a second or subsequent offense.

No Applicable Case Law.

IOWA CODE ANN. § 717D.5. Confiscation and Disposition of Animals

1. *A local authority may confiscate an animal that is involved in a violation of section 717D.2. An animal that is livestock²³ shall be considered neglected and may be rescued and disposed of as provided in section 717.5. An animal which is not livestock shall be considered threatened and rescued and disposed of as provided in section 717B.4.*

2. If an animal that is involved in a violation of section 717D.2 is not rescued and disposed of pursuant to section 717.5 or 717B.4, it shall be forfeited to the state and subject to disposition as ordered by the court. In addition, the court shall order the owner of the animal to pay an amount which shall not be more than the expenses incurred in maintaining or disposing of the animal. The court may also order that the person pay reasonable attorney fees and expenses related to the investigation of the case that shall be taxed as other court costs. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds which are received from the sale of the animal ordered by the court.

No Applicable Case Law.

4. BESTIALITY

IOWA CODE ANN. § 717C.1. Bestiality

1. For purposes of this section:
 - (a) “Animal” means any nonhuman vertebrate, either dead or alive.
 - (b) “Sex act” means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.
2. A person who performs a sex act with an animal is guilty of an aggravated misdemeanor.

²³ “‘Livestock’ means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus; farm deer as defined in section 170.1; or poultry.” IOWA CODE ANN. § 717.1.

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3. Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person's expense.

No Applicable Case Law.

5. PETS AS PRIZES

IOWA CODE ANN. § 717E.2. Pet Awards Prohibited

A person is guilty of a simple misdemeanor if the person awards a pet or advertises that a pet²⁴ may be awarded as any of the following:

1. A prize for participating in a game²⁵.
2. A prize for participating in a fair²⁶.
3. An inducement or condition for visiting a place of business or attending an event sponsored by a business²⁷.
4. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care, or disposition of the pet.

IOWA CODE ANN. § 717E.3. Exceptions

This chapter shall not apply to any of the following:

1. A pet shop licensed pursuant to section 162.5 if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
2. Youth programs associated with 4-H clubs; future farmers of America; the Izaak Walton league of America; or organizations associated with outdoor recreation, hunting, or fishing including but not limited to the Iowa sportsmen's federation.

No Applicable Case Law.

²⁴ “‘Pet’ means a living animal which is limited to a dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.” IOWA CODE ANN. § 717E.1.

²⁵ “‘Game’ means a game of chance or game of skill as defined in section 99B.1.” IOWA CODE ANN. § 717E.1

²⁶ “‘Fair’ means any of the following: (a) The annual fair and exposition held by the Iowa state fair board pursuant to chapter 173 or any fair event conducted by a fair under the provisions of chapter 174; (b) An exhibition of agricultural or manufactured products; (c) An event for operation of amusement rides or devices or concession booths.” IOWA CODE ANN. § 717E.1.

²⁷ “‘Business’ means any enterprise relating to any of the following: (a) The sale or offer for sale of goods or services; (b) A recruitment for employment or membership in an organization; (c) A solicitation to make an investment;

(d) An amusement or entertainment activity.” IOWA CODE ANN. § 717E.1.

6. CARE OF ANIMALS IN COMMERCIAL ESTABLISHMENTS

IOWA CODE ANN. § 162.1. Purpose and Scope

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

- a. Insure that all dogs and cats handled by commercial establishments are provided with humane care and treatment.
- b. Regulate the transportation, sale, purchase, housing, care, handling, and treatment of dogs and cats by persons engaged in transporting, buying, or selling them.
- c. Provide that all vertebrate animals²⁸ 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.
- d. Authorize the sale, trade, or adoption of only those animals which appear to be free of infectious or communicable disease.
- e. 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.

IOWA CODE ANN. § 162.10A. Standard of Care for Commercial Establishments

1. a. *A commercial establishment²⁹ 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 feed³⁰, adequate water³¹, housing facilities³², 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

²⁸“Vertebrate animal” means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species, and ostriches, rheas, or emus.” IOWA CODE ANN. § 162.2.

²⁹“Commercial establishment” or “establishment” means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.” IOWA CODE ANN. § 162.2.

³⁰“Adequate feed” means the provision at suitable intervals of not more than twenty-four hours or longer if the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.” IOWA CODE ANN. § 162.2.

³¹“Adequate water” means reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed twenty-four hours at any interval.” IOWA CODE ANN. § 162.2.

³²“Housing facilities” means any room, building or area used to contain a primary enclosure or enclosures.” IOWA CODE ANN. § 162.2.

regulated under this paragraph “a” unless the person is a state licensee³³ as provided in paragraph “b” or a permittee³⁴ as provided in paragraph “c”.

b. A state licensee who is a commercial breeder³⁵ 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 Act³⁶. 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.

No Applicable Case Law.

IOWA CODE ANN. § 162.10D. 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 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.

³³ “Federal licensee’ means a person to whom a federal license as a dealer or exhibitor is issued.” IOWA CODE ANN. § 162.2. “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.” IOWA CODE ANN. § 162.2.

³⁴ “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.” IOWA CODE ANN. § 162.2.

³⁵ “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 any number of breeding male or female greyhounds for the purposes of using them for pari-mutuel 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.” IOWA CODE ANN. § 162.2.

³⁶ “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.” IOWA CODE ANN. § 162.2.

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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.

No Applicable Case Law.

IOWA CODE ANN. § 162.11. Exceptions

1. 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”.
2. This chapter does not apply to a place or establishment which operates under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, hospitalized, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. However, if animals are accepted by such a place, establishment, or hospital for boarding or grooming for a consideration, the place, establishment, or hospital is subject to the licensing or registration requirements applicable to a boarding kennel or commercial kennel under this chapter and the rules adopted by the secretary.
3. This chapter does not apply to a noncommercial kennel at, in, or adjoining a private residence where dogs or cats are kept for the hobby of the householder, if the dogs or cats are used for hunting, for practice training, for exhibition at shows or field or obedience trials, or for guarding or protecting the householder's property. However, the dogs or cats must not be kept for breeding if a person receives consideration for providing the breeding.

No Applicable Case Law.

IOWA CODE ANN. § 162.12. Denial or revocation of license or registration

A certificate of registration may be denied to any animal shelter, pound, or research facility and a state license may be denied to any public auction, boarding kennel, commercial kennel, pet shop,

commercial breeder, or dealer³⁷, 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 shall be open for inspection during normal business hours.

No Applicable Case Law.

IOWA CODE ANN. § 162.13. Criminal Penalties-confiscation

1. 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 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.³⁸
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 of the person's authorization as provided in section 162.10D.
4. Dogs, cats, and other 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 subsection is subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this subsection is a separate offense.

No Applicable Case Law.

³⁷ “‘Dealer’ means any person who is engaged in the business of buying for resale or selling or exchanging dogs or cats, or both, as a principal or agent, or who claims to be so engaged.” IOWA CODE ANN. § 162.2.

³⁸ “‘Euthanasia’ means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.” IOWA CODE ANN. § 162.2.

IOWA CODE ANN. § 162.14. Custody by animal warden

An animal warden, upon taking custody of any animal in the course of the warden's official duties, shall immediately make a record of the matter in the manner prescribed by the secretary and the record shall include a complete description of the animal, reason for seizure, location of seizure, the owner's name and address if known, and all license or other identification numbers, if any. Complete information relating to the disposition of the animal shall be added in the manner provided by the secretary immediately after disposition.

No Applicable Case Law.

IOWA CODE ANN. § 162.15. Violation by animal warden

Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense.

No Applicable Case Law.

IOWA CODE ANN. § 162.19. Abandoned animals destroyed

Whenever any animal is left with a veterinarian, boarding kennel or commercial kennel pursuant to a written agreement and the owner does not claim the animal by the agreed date, the animal shall be deemed abandoned, and a notice of abandonment and its consequences shall be sent within seven days by certified mail to the last known address of the owner. For fourteen days after mailing of the notice the owner shall have the right to reclaim the animal upon payment of all reasonable charges, and after the fourteen days the owner shall be deemed to have waived all rights to the abandoned animal. If despite diligent effort an owner cannot be found for the abandoned animal within another seven days, the veterinarian, boarding kennel, or commercial kennel may humanely destroy the abandoned animal.

Each veterinarian, boarding kennel or commercial kennel shall warn its patrons of the provisions of this section by a conspicuously posted notice or by conspicuous type in a written receipt.

No Applicable Case Law.

IOWA CODE ANN. § 162.20. Sterilization

1. A pound or animal shelter³⁹ shall not transfer ownership of a dog or cat by sale or adoption, unless the dog or cat is subject to sterilization. The sterilization shall involve a procedure which permanently destroys the capacity of a dog or cat to reproduce, either by the surgical removal or alteration of its reproductive organs, or by the injection or ingestion of a serum. The pound or animal shelter shall not relinquish custody until it provides for one of the following:

- a. Sterilization performed by a veterinarian licensed pursuant to chapter 169.

³⁹“Animal shelter” means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.” IOWA CODE ANN. § 162.2.

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5. This section shall not apply to the following:

- a. The return of a dog or cat to its owner by a pound or animal shelter.
- b. The transfer of a dog or cat by a pound or animal shelter which has obtained an enforcement waiver issued by the department. The pound or shelter may apply for an annual waiver each year as provided by rules adopted by the department. The department shall grant a waiver, if it determines that the pound or animal shelter is subject to an ordinance by a city or county which includes stricter requirements than provided in this section. The department shall not charge more than ten dollars as a waiver application fee. The fees collected by the department shall be deposited in the general fund of the state.
- c. The transfer of a dog or cat to a research facility as defined in section 162.2 or a person licensed by the United States department of agriculture as a class B dealer pursuant to 9 C.F.R. subch. A, pt. 2. However, a class B dealer who receives an unsterilized dog or cat from a pound or animal shelter shall either sterilize the dog or cat or transfer the unsterilized dog or cat to a research facility provided in this paragraph. The class B dealer shall not transfer a dog to a research facility if the dog is a greyhound registered with the national greyhound association and the dog raced at a track associated with pari-mutuel racing unless the class B dealer receives written approval of the transfer from a person who owned an interest in the dog while the dog was racing.

No Applicable Case Law.

7. WILD ANIMALS

IOWA CODE ANN. § 717F.3: Dangerous wild animals--prohibitions

Except as otherwise provided in this chapter, a person shall not do any of the following:

1. Own or possess a dangerous wild animal.
2. Cause or allow a dangerous wild animal owned by a person or in the person's possession to breed.
3. Transport a dangerous wild animal into this state.

No Applicable Case Law.

IOWA CODE ANN. § 717B.6. : Destruction and disposition of wild animals

A person may humanely destroy a wild animal as defined in section 481A.1, if the wild animal is permanently distressed by injury or disease to a degree that results in severe and prolonged suffering. The destroyed animal shall be subject to disposition as provided by rules adopted by the natural resource commission pursuant to chapter 17A.

No Applicable Case Law.

IOWA CODE ANN. § 717F.13.: Criminal penalties

A person who intentionally causes a dangerous wild animal to escape in violation of this chapter is guilty of an aggravated misdemeanor.

No Applicable Case Law.

8. LAW ENFORCEMENT POLICIES AND PENALTIES

IOWA CODE ANN. § 717B.5. Rescue of Threatened Animals

A local authority may provide for the rescue of an animal as follows:

1. The rescue must be made by a law enforcement officer having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169. The law enforcement officer may rescue the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue the animal if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the animal. The local authority may contract with an animal care provider for the maintenance of the animal. The local authority shall provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

- (a) Delivering written notice to the responsible party's last known address by the United States postal service or personal service.
- (b) Posting a notice in a conspicuous place at the location where the animal was rescued.

The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the local authority shall initiate a dispositional proceeding pursuant to section 717B.4.

4. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

Applicable Case Law:

Latiker v. City of Council Bluffs, 720 N.W.2d 191(Iowa Ct. App., 2006).

Facts: Dog owner challenged forfeiture of his dog claiming violation of procedural due process.

Holding: The Iowa District Court for Pottawattamie County affirmed the city's order of forfeiture of defendant's dogs and dismissed the action for damages. The impoundment of animal did not violate procedural due process as the individual had received oral notice of the impoundment of his dog and written notice of the city's intention to forfeit the dog through adoption. He also had a hearing before the city's board of health.

IOWA CODE ANN. § 717B.4. Dispositional proceedings

1. Upon a petition brought by a local authority, a court in the county where an animal is maintained by a responsible party or a local authority shall determine if the animal is a threatened animal and order its disposition after a hearing.
 - a. The matter shall be heard within ten days from the filing of the petition for disposition by the local authority.
 - b. If the animal has been rescued, the court may order that the animal be placed under the custody of the local authority and maintained in the same manner as a rescued animal under section 717B.5.
 - c. The court may continue the hearing for up to thirty days upon petition by the responsible party. However, the court shall not grant a continuance unless the animal is maintained by the local authority. The responsible party must post a bond or other security with the local authority as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for thirty days. The court may grant a subsequent continuance upon petition by the responsible party. The continuance shall be for not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.
2. The hearing to determine if the animal is a threatened animal for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of this chapter.
3. If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the local authority to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:
 - a. The court may order the responsible party to pay an amount which shall not be more than the dispositional expenses incurred by the local authority. The court may also award the local authority court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action.

- b. If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the local authority may use the posted amount to offset the local authority's dispositional expenses.
- c. If any moneys are realized from the disposition of a threatened animal, the moneys shall be used to offset the local authority's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.
- d. If the threatened animal is owned by more than one responsible party, the amount required to offset the local authority's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If the responsible party is a landowner, the local authority may submit the amount to reimburse the local authority for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. If the threatened animal is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by euthanasia as defined in section 162.2.

Applicable Case Law:

Johnson County v. Kriz, 582 N.W.2d 759 (Iowa 1998).

Facts: Following animal neglect conviction for owner of 50 monkeys who deprived them of food, water, sanitation, and medical care, owner appealed the disposition in hopes of selling the monkeys. The statute would have allowed monkeys to be sold or placed in approved sanctuaries or zoos.

Holding: Because the monkeys required specialized care, they were carriers of diseases that could infect humans, and were dangerous to have as pets, the court determined that a public sale was improper and that the monkeys should be placed in appropriate sanctuaries or zoos. The court also noted that the law was designed not to maximize the owner's profits but to get immediate care for the neglected animals.

City of Dubuque v. Fancher, 590 N.W.2d 493 (Iowa 1999).

Facts: Defendant kept hundreds of rabbits in cages in his home, many without food or water. They were seized by the local animal warden after being found by police officers who had entered with a warrant for certain business records unrelated to the rabbits. At a hearing, the city

presented testimony that the rabbits were infected with bacteria and parasites and the entire population needed to be euthanized.

Holding: The trial court found the rabbits were neglected. It also determined they were properly seized and ordered the rabbits destroyed and the costs of the removal, care, and destruction assessed to the defendant.

IOWA CODE ANN. § 902.9 (2010). Maximum sentence for felons

The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class "A" felony shall be determined as follows:

1. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.
2. A class "B" felon shall be confined for no more than twenty-five years.
3. An habitual offender shall be confined for no more than fifteen years.
4. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.
5. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

The surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

No Applicable Case Law.

IOWA CODE ANN. § 903.1. Maximum sentence for misdemeanants

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, which fine shall not be suspended by the court, within the following limits:

- a. For a simple misdemeanor, there shall be a fine of at least sixty-five dollars but not to exceed six hundred twenty-five dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine.
- b. For a serious misdemeanor, there shall be a fine of at least three hundred fifteen dollars but not to exceed one thousand eight hundred seventy-five dollars. In addition, the court may also order imprisonment not to exceed one year.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years. There shall be a fine of at least six hundred twenty-five dollars but not to exceed six thousand two hundred fifty dollars. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

3. A person under eighteen years of age convicted of a simple misdemeanor under chapter 321,

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321G, 321I, 453A, 461A, 461B, 462A, 481A, 481B, 483A, 484A, or 484B, or a violation of a county or municipal curfew or traffic ordinance, except for an offense subject to section 805.8, may be required to pay a fine, not to exceed one hundred dollars, as fixed by the court, or may be required to perform community service as ordered by the court.

4. The surcharges required by sections 911.1, 911.2, 911.3, and 911.4 shall be added to a fine imposed on a misdemeanor as provided in those sections, and are not a part of or subject to the maximums set in this section.

No Applicable Case Law.