



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #147

Animal Health Program Changes (Agriculture, Trade and Consumer Protection)

[LFB 2009-11 Budget Summary: Page 98, #18]

CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection (DATCP) issues licenses for persons or enterprises involved in movements and sales of animals. Among other operations, licenses are required for: (a) animal markets; (b) animal trucking operations; (c) animal dealers; (d) fish farms; and (e) farm-raised deer. Licenses for fish and deer farms vary with the size of an operation and the activities in which it engages. License fees fund DATCP's program for inspecting and monitoring animal health throughout the state, particularly to prevent the outbreak of any diseases in state animal populations. Certain animal health license fees are specified in the statutes, with DATCP authorized to set different fee levels by administrative rule. Some license fees are set exclusively by DATCP administrative rule.

GOVERNOR

Delete statutory provisions setting license fees for animal markets, animal dealers and animal truckers. Instead, require DATCP to set license fees for each operation by administrative rule.

Further, require DATCP to promulgate administrative rules setting fees for reinspection of animal markets, animal dealers, animal truckers, deer farms and fish farms for cases in which the Department has previously identified a violation. Specify that reinspection fees may not exceed reasonable costs of reinspection, but may vary for different types of premises. Further, specify DATCP may require payment when it issues an application for a person renewing his or her registration for the particular operation. Estimate revenues of \$19,000 in 2010-11.

Additionally, delete the requirement that DATCP inspect a fish farm upon its initial registration. Instead, specify that DATCP may inspect a fish farm upon initial registration or at any other time.

DISCUSSION POINTS

1. These changes are intended to allow the Department to recoup costs of inspections conducted as a follow-up to violations found at animal markets, animal dealers, animal trucking operations, deer farms and fish farms. Further, DATCP indicates repealing the requirement for mandatory initial inspections of fish farms would codify current departmental practice, which incorporates a risk-based approach to inspecting.

2. The statutes currently specify certain license fees, which are identified as statutory guidelines in the table, except that DATCP has set higher fee levels by administrative rule as shown:

Animal License Fees

<u>License/Permit</u>	<u>Annual Fee</u>	<u>Statutory Guideline</u> **
Farm-Raised Deer		
Up to 15 deer	\$162.50*	---
15 or more deer	325.00*	---
Fish Farms - Type 1 (General permit)		
One farm	37.50	---
Two or more farms	50.00	---
Fish Farms - Type 2 or 3 (Sell or distribute live fish or eggs)		
Up to 5 farms	125.00	---
5-10 farms	150.00	---
11-20 farms	200.00	---
21 or more farms	300.00	---
Animal Market (Non-equine)		
Class A (Year-round sales)	420.00*	\$150.00
Class B (Limited sales; livestock only)	220.00*	75.00
Class E (Year-round; equine only)	280.00*	100.00
Animal Dealer	220.00*	75.00
Animal Trucker	60.00*	20.00
Animal Transport Vehicle	20.00*	5.00

* Denotes fee levels that take effect July 1, 2009.

** These would be eliminated under the bill.

3. DATCP completed a revision of ATCP 12, which contains rules for animal markets, dealers and truckers, in June, 2008. The table shows fee levels that were increased in the revision. DATCP received revenues of \$193,800 in 2007-08. After new fees take effect beginning in 2009-10, DATCP expects revenues will be approximately \$355,300 annually. These revenues would not be affected by the bill.

4. Additionally, DATCP estimates that reinspection fees required under the bill would total approximately \$19,000 annually. Although fee levels would be set through administrative rule process, DATCP reports that reinspections would consist of those that would require a veterinarian examination and those at which no veterinarian is required. DATCP anticipates conducting approximately 10 veterinarian reinspections at a cost of \$280 per inspection for revenues of \$2,800. Reinspections requiring no veterinarian may be \$180, and DATCP estimates approximately 90 annually, for revenues of \$16,200.

5. By requiring the Department to promulgate rules for animal license fees, the Legislature would be relinquishing a degree of oversight of the Department's responsibilities for animal health inspection and enforcement. The statutes specify that agencies submit proposed rules to the Legislature in final draft form. The appropriate standing committee in each house generally have 30 to 60 days to review the proposed rule. A committee may hold public hearings and, by majority vote, propose modifications to a rule. It may also object to a rule under certain specified criteria, which would require the proposal to be heard by the Joint Committee for Review of Administrative Rules (JCRAR). If the JCRAR objects to a rule, it must introduce a bill in each house of the Legislature to support objection to the rule. If either bill becomes law, the rule may not be promulgated unless a subsequent law specifically authorizes the rule. A rule may not be promulgated while a bill containing a formal objection is pending.

6. It may be appropriate for license and reinspection fees to be set by rule. One could argue that as DATCP's costs of program services change over time, rule-making authority allows the Department to recoup its costs and ensure sufficient revenues without requiring legislation. Further, the rule-making process generally includes public notice, hearing and comment requirements as well as the legislative review procedures.

7. Alternatively, the Committee could consider setting a maximum fee level in the statutes. The Department would then need to obtain a statutory change to set higher fees as program costs increase over time, but the Legislature would retain a role in approving any future fee increases. Legislative oversight of fee increases may be desirable to ensure fee revenues are being prudently used at the time an increase is requested. The Committee could consider setting the fees in the table as maximum amounts (Alternative 2).

Fish Farm Inspection

8. The bill would also delete a requirement for the mandatory inspection of fish farms upon initial registration. DATCP indicates this provision would align the statutes with current practice, as staff and resources are insufficient to conduct mandatory initial inspections. Instead, fish farms are inspected on an audit basis, with DATCP giving greater weight to those farms whose fish may be at greater risk of contracting or spreading diseases. This practice is also generally how the animal health program conducts oversight of the livestock industry. The Department reports that field personnel remain aware of disease and other risks and monitor animal populations that may be susceptible to threats.

9. It may be that requiring an initial inspection sets an important program goal in

protecting animal and human health, and it also expresses the Legislature’s position on the regulation of fish farms. It could also be argued that because the bill would increase staffing levels authorized for animal health, reducing DATCP’s regulatory responsibilities may not be necessary. The Committee could consider deleting the provision that eliminates mandatory initial inspection of fish farms (Alternative 3).

ALTERNATIVES

1. Adopt the Governor’s recommendation to: (a) delete statutory requirements for license fees for animal markets, animal dealers and animal truckers; (b) require DATCP to set license fees by rule; (c) require DATCP to set reinspection fees by rule; and (d) delete the requirement that DATCP conduct inspections of fish farms upon a farm’s initial registration with the Department.

2. Specify the following fees are maximum amounts, and authorize DATCP to set lower fees by administrative rule:

Farm-Raised Deer	
Up to 15 deer	\$162.50
15 or more deer	325.00
Fish Farms - Type 1 (General permit)	
One Farm on Premises	37.50
Two or more farms on premises	50.00
Fish Farms - Type 2 or 3 (Sell or distribute live fish or eggs)	
Up to 5 on premises	125.00
5-10 farms on premises	150.00
11-20 farms on premises	200.00
21 or more farms	300.00
Animal Market (Non-equine)	
Class A (Year-round sales)	420.00
Class B (Limited sales; livestock only)	220.00
Class E (Year-round; equine only)	280.00
Animal Dealer	220.00
Animal Trucker	60.00
Animal Transport Vehicle	20.00

3. Maintain the requirement of mandatory initial inspections for fish farms.

4. Delete provision. (Mandatory initial fish farm inspections would remain, and DATCP could not charge for reinspections.)

ALT 4	Change to Bill
	Revenue
PR	- \$19,000

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