

CHAPTER 1121

LIVESTOCK FEEDLOTS

S. F. 367

AN ACT relating to the location and operation of livestock feedlots, and defining nuisance as the term relates thereto.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. **Definitions.** As used in this Act, unless the
2 context otherwise requires:

3 1. "City" means a municipal corporation including a town*, but not including a
4 county, township, school district, or any special-purpose district or authority.

5 2. "Department" means the department of environmental quality and includes
6 any officer or agency within that department.

7 3. "Established date of operation" means the date on which a feedlot
8 commenced operating with not more livestock than reasonably could be
9 maintained by the physical facilities existing as of that date. If the physical
10 facilities of the feedlot are subsequently expanded, the established date of
11 operation for each expansion is deemed to be a separate and independent
12 "established date of operation" established as of this date of commencement of
13 the expanded operations, and the commencement of expanded operations shall
14 not divest the feedlot of a previously established date of operation.

15 4. "Established date of ownership" means the date of the recording of an
16 appropriate muniment of title establishing the ownership of realty.

17 5. "Rule of the department" means a rule as defined in section seventeen A
18 point two (17A.2) of the Code which materially affects the operation of a feedlot
19 and which has been adopted by the department. The term includes a rule which
20 was in effect prior to the effective date of chapter one thousand ninety (1090),
21 Acts of the Sixty-fifth General Assembly, 1974 Session. Except as specifically
22 provided in subparagraph five (5) of paragraph b and subparagraph five (5) of
23 paragraph c of subsection two (2) of section three (3) of this Act, nothing in this
24 Act shall be deemed to empower the department to make any rule.

25 6. "Feedlot" means a lot, yard, corral, or other area in which livestock are
26 confined, primarily for the purposes of feeding and growth prior to slaughter. The
27 term does not include areas which are used for the raising of crops or other
28 vegetation and upon which livestock are allowed to graze or feed.

29 7. "Livestock" means cattle, sheep, swine, poultry, and other animals or fowl,
30 which are being produced primarily for use as food or food products for human
31 consumption.

32 8. "Materially affects" means prohibits or regulates with respect to the location,
33 or the emission of noise, effluent, odors, sewage, waste, or similar products
34 resulting from the operation or the location or use of buildings, machinery,
35 vehicles, equipment, or other real or personal property used in the operation, of a
36 livestock feedlot.

37 9. "Nuisance" means and includes public or private nuisance as defined either
38 by statute or by the common law.

39 10. "Nuisance action or proceeding" means and includes every action, claim or
40 proceeding, whether brought at law, in equity, or as an administrative proceeding,
41 which is based on nuisance.

42 11. "Owner" shall mean the person holding record title to real estate to include
43 both legal and equitable interests under recorded real estate contracts.

44 12. "Zoning requirement" means a regulation or ordinance, which has been
45 adopted by a city, county, township, school district, or any special-purpose
46 district or authority, and which materially affects the operation of a feedlot.

*According to enrolled Act

47 Nothing in this Act shall be deemed to empower any agency described in this
48 subsection to make any regulation or ordinance.

49 13. A rule pertaining to "feedlot management standards" means a rule, the
50 implementation of which, or the compliance with which, requires the expenditure
51 of funds not in excess of two percent of the establishment cost of the feedlot.

52 14. A rule pertaining to "feedlot design standards" means a rule, the
53 implementation of which, or the compliance with which, requires the expenditure
54 of funds in excess of two percent of the establishment cost of the feedlot.

55 15. "Establishment cost of a feedlot" means the cost or value of the feedlot on
56 its established date of operation and includes the cost or value of the building,
57 machinery, vehicles, equipment or other real or personal property used in the
58 operation of the feedlot.

1 SEC. 2. NEW SECTION. **Compliance—a defense to nuisance actions.** In any
2 nuisance action or proceeding against a feedlot brought by or on behalf of a
3 person whose date of ownership of realty is subsequent to the established date of
4 operation of that feedlot, proof of compliance with sections three (3) and four (4)
5 of this Act shall be an absolute defense, provided that the conditions or
6 circumstances alleged to constitute a nuisance are subject to regulatory
7 jurisdiction in accordance with either section three (3) or four (4) of this Act.

1 SEC. 3. NEW SECTION. **Compliance with rules of the department.**

2 1. Requirement. A person who operates a feedlot shall comply with applicable
3 rules of the department. The applicability of a rule of the department shall be as
4 provided in subsection two (2) of this section. A person complies with this section
5 as a matter of law where no rule of the department exists.

6 2. Applicability of rules.

7 a. Exclusion for federally mandated requirements. This section shall apply to
8 the department's rules except for rules required for delegation of the national
9 pollutant discharge elimination system permit program pursuant to the Federal
10 Water Pollution Control Act, Title thirty-three (33), United States Code, chapter
11 one hundred twenty-six (126), as amended, and forty (40) Code of Federal
12 Regulations, Part one hundred twenty-four (124).

13 b. Applicability of rules of the department other than those issued by the air
14 quality commission.

15 (1) A rule of the department in effect on the effective date of this Act shall
16 apply to a feedlot with an established date of operation prior to the effective date
17 of this Act.

18 (2) A rule of the department shall apply to a feedlot with an established date of
19 operation subsequent to the effective date of the rule.

20 (3) A rule of the department adopted after the effective date of this Act shall
21 not apply to a feedlot holding any DEQ permit and having an established date of
22 operation prior to the effective date of the rule until either the expiration of the
23 term of the permit in effect on the effective date of the rule, or ten years from the
24 established date of operation of the feedlot, whichever time period is greater.

25 (4) A rule of the department adopted after the effective date of this Act shall
26 not apply to a feedlot not previously required to hold a DEQ permit and having
27 an established date of operation prior to the effective date of the rule for either a
28 period of ten years from the established date of operation of the feedlot or five
29 years from the effective date of the rule, whichever time period is greater.

30 (5) To achieve compliance with applicable rules the department shall issue an
31 appropriate compliance schedule.

32 c. Applicability of rules of the air quality commission.

33 (1) A rule of the air quality commission in effect on the effective date of this
34 Act shall apply to a feedlot with an established date of operation prior to the
35 effective date of this Act.

36 (2) A rule of the air quality commission shall apply to a feedlot with an
37 established date of operation subsequent to the effective date of the rule.

38 (3) A rule of the air quality commission pertaining to feedlot management
39 standards adopted after the effective date of this Act shall not apply to any
40 feedlot having an established date of operation prior to the effective date of the
41 rule until one year after the effective date of the rule.

42 (4) A rule of the air quality commission pertaining to feedlot design standards
43 adopted after the effective date of this Act shall not apply to any feedlot having
44 an established date of operation prior to the effective date of the rule for either a
45 period of ten years from the established date of operation of the feedlot or two
46 years from the effective date of the rule, whichever time period is greater.
47 However, any design standard rule pertaining to the siting of any feedlot shall
48 apply only to a feedlot with an established date of operation subsequent to the
49 effective date of the rule.

50 (5) To achieve compliance with applicable rules the department shall issue an
51 appropriate compliance schedule.

1 SEC. 4. NEW SECTION. **Compliance with zoning requirements.**

2 1. Requirement. A person who operates a feedlot shall comply with applicable
3 zoning requirements. The applicability of a zoning requirement shall be as
4 provided in subsection two (2) of this section. A person complies with this section
5 as a matter of law where no zoning requirement exists.

6 2. Applicability.

7 a. A zoning requirement shall apply to a feedlot with an established date of
8 operation subsequent to the effective date of the zoning requirement.

9 b. A zoning requirement, other than one adopted by a city, shall not apply to a
10 feedlot with an established date of operation prior to the effective date of the
11 zoning requirement for a period of ten years from the effective date of that zoning
12 requirement.

13 c. A zoning requirement which is in effect on the effective date of this Act,
14 shall apply to a feedlot with an established date of operation prior to the effective
15 date of this Act.

16 d. A zoning requirement adopted by a city shall apply to a feedlot located
17 within an incorporated or unincorporated area which is subject to regulation by
18 that city as of the effective date of this Act, regardless of the established date of
19 operation of the feedlot.

20 e. A zoning requirement adopted by a city shall not apply to a feedlot which
21 becomes located within an incorporated or unincorporated area subject to
22 regulation by that city by virtue of an incorporation or annexation which takes
23 effect after the effective date of this Act for a period of ten years from the
24 effective date of the incorporation or annexation.

1 SEC. 5. Chapter six hundred fifty-seven (657), Code 1975, is amended by
2 adding the following new section:

3 NEW SECTION. **Feedlots.** This chapter shall apply to the operation of a
4 livestock feedlot, only as provided in sections one (1) through five (5) of this Act.

1 SEC. 6. The Code editor is directed to codify sections one (1) through five (5)
2 of this Act as a new chapter of the Code.

1 SEC. 7. This Act shall take effect on November 1, 1976.

Approved June 28, 1976