

~~and in good faith~~, in accordance with a generally recognized engineering or safety ~~standard, criteria, standards~~ or design ~~theory theories~~ in existence at the time of the construction or reconstruction.

15. Any claim based upon or arising out of an act or omission of an officer or employee of the municipality or the municipality's governing body by a person ~~skateboarding, or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~ on public property when the person knew or reasonably should have known that the ~~skateboarding, or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~ created a substantial risk of injury to the person and was voluntarily in the place of risk. The exemption from liability contained in this subsection shall only apply to claims for injuries or damage resulting from the risks inherent in the activities of ~~skateboarding, or in-line skating, bicycling, unicycling, scootering, river rafting, canoeing, or kayaking~~.

Approved May 30, 2003

CHAPTER 163

MANURE APPLICATION REQUIREMENTS

H.F. 644

AN ACT providing for manure application requirements, providing for fees, making penalties applicable, and providing effective dates.

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

Section 1. Section 459.102, subsection 11, Code 2003, is amended by striking the subsection, and inserting in lieu thereof the following:

11. "Commercial manure service" means a sole proprietor or business association as defined in section 9H.1, engaged in the business of transporting, handling, storing, or applying manure for a fee.

Sec. 2. Section 459.102, Code 2003, is amended by adding the following new subsections:
NEW SUBSECTION. 11A. "Commercial manure service representative" means a natural person who is any of the following:

a. A manager of a commercial manure service. As used in this paragraph a "manager" is a person who is actively involved in the operation of a commercial manure service and takes an important part in making management decisions substantially contributing to affecting the success of the commercial manure service.

b. An employee, agent, or contractor of a commercial manure service, if the person is engaged in transporting, handling, storing, or applying manure on behalf of the commercial manure service.

NEW SUBSECTION. 15A. "Confinement site manure applicator" means a person, other than a commercial manure service or a commercial manure service representative, who applies manure on land if the manure originates from a manure storage structure.

NEW SUBSECTION. 19A. "Director" means the director of the department of natural resources.

NEW SUBSECTION. 23A. "Family member" means a person related to another person as parent, grandparent, child, grandchild, sibling, or a spouse of such a related person.

Sec. 3. Section 459.103, subsection 2, Code 2003, is amended to read as follows:

2. Any provision referring generally to compliance with the requirements of this chapter as applied to animal feeding operations also includes compliance with requirements in rules adopted by the commission pursuant to this section, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to licenses, certifications, permits, or manure management plans required under subchapter III. However, for purposes of approving or disapproving an application for a construction permit as provided in section 459.304, conditions for the approval of an application based on results produced by a master matrix are not requirements of this chapter until the department approves or disapproves an application based on those results.

Sec. 4. NEW SECTION. 459.314A LICENSURE — COMMERCIAL MANURE SERVICE.

A person shall not engage in the business of a commercial manure service, unless the department issues the person a commercial manure service license under this section.

1. The department shall not issue a license to a commercial manure service unless each manager of the commercial manure service is certified as a commercial manure service representative pursuant to section 459.315.

2. The department shall not issue a license to a commercial manure service, if the license for the commercial manure service has been revoked within the previous three years or a person who holds a controlling interest in the commercial manure service held a controlling interest in another commercial service which has been revoked within the previous three years.

3. The department may impose conditions or limitations upon the license. However, the issuance of a license shall not be conditioned upon providing a bond or maintaining a certain financial condition. A commercial manure service shall be issued a single license regardless of the number of sites where the commercial manure service operates offices.

4. A license application must be submitted to the department on a form furnished by the department according to procedures required by the department. The license shall expire on March 1 of each year.

5. A commercial manure service shall be charged a license fee as provided in section 459.316.

Sec. 5. NEW SECTION. 459.314B DISCIPLINARY ACTION — COMMERCIAL MANURE SERVICE.

The department may issue an order to suspend or revoke the license of a commercial manure service as provided in chapter 17A, including an order to immediately suspend or revoke the license pursuant to section 17A.18A. The department may suspend or revoke the license of a commercial manure service for an applicable violation of this chapter. In addition, the department may suspend or revoke a commercial manure service's license for any of the following:

1. Committing a fraudulent act, including but not limited to engaging in a deceptive act or practice, deliberately misrepresenting or omitting a material fact in the license application or submitting a statement verifying that an employee may be substituted for certification without paying a fee as provided in section 459.316.

2. Knowingly assisting a person in evading the provisions of this chapter.

3. Knowingly employing or executing a contract with a person who acts as a commercial manure service representative who is not certified pursuant to section 459.315.

Sec. 6. Section 459.315, subsections 1 and 2, Code 2003, are amended by striking the subsections and inserting in lieu thereof the following:

1. a. A person shall not act as a commercial manure service representative, unless the person is certified pursuant to an educational program as provided in this section.

b. A person shall not act as a confinement site manure applicator, unless the person is certified pursuant to an educational program as provided in this section.

Sec. 7. Section 459.315, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. A person required to be certified as a commercial manure ~~applicator~~ service representative must be certified by the department each year. The person shall be certified after completing an educational program which shall consist of an examination required to be passed by the person or three hours of continuing instructional courses which the person must attend each year in lieu of passing the examination.

Sec. 8. Section 459.315, subsection 4, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The department shall adopt, by rule, requirements for the certification, including educational program requirements. The department may establish different educational programs designed for commercial manure ~~applicators~~ service representatives and confinement site manure applicators. The department shall adopt rules necessary to administer this section, including establishing certification standards, which shall at least include standards for the ~~transporting, handling, application, and storage of~~ storing, and applying manure, the potential effects of manure upon surface water and groundwater, and procedures to remediate the potential effects on surface water or groundwater.

Sec. 9. Section 459.315, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. The department shall administer the continuing instructional courses, by either teaching the courses or selecting persons to teach the courses, according to criteria as provided by rules adopted by the department. The department shall, to the extent possible, select persons to teach the continuing instructional courses. The department is not required to compensate persons to teach the continuing instructional courses. In selecting persons, the department shall consult with organizations interested in ~~the application of~~ transporting, handling, storing, or applying manure, including associations representing manure applicators ~~the Iowa commercial nutrient applicators association~~ and associations representing agricultural producers. The Iowa cooperative extension service in agriculture and home economics of Iowa state university of science and technology shall cooperate with the department in administering the continuing instructional courses. The Iowa cooperative extension service may teach continuing instructional courses, train persons selected to teach courses, or distribute informational materials to persons teaching the courses.

Sec. 10. Section 459.315, subsection 5, paragraph a, Code 2003, is amended to read as follows:

a. This section shall not require a person to be certified as a commercial manure ~~applicator~~ service representative if any of the following applies:

- (1) The person is any of the following:
 - (a) Actively engaged in farming who trades work with another such person.
 - (b) Employed by a person actively engaged in farming not solely as a manure applicator who applies manure as an incidental part of the person's general duties.
 - (c) Engaged in applying manure as an incidental part of a custom farming operation.
 - (d) Engaged in applying manure as an incidental part of a person's duties as provided by rules adopted by the department providing for an exemption.
- (2) The person ~~transports, handles, stores, or~~ applies manure for a period of thirty days from the date of initial employment as a commercial manure ~~applicator~~ if service representative and all of the following apply:
 - (a) The person is actively seeking certification under this section.
 - (b) The person applying the manure is acting transporting, handling, storing, or applying manure under the instructions and control of a certified commercial manure applicator who is both of the following: service representative. The commercial manure service representative must be physically
 - (a) Physically present at the site where the manure is located.

~~(b) In The commercial manure service representative must also be in sight or hearing immediate communication distance of the supervised person.~~

Sec. 11. Section 459.315, subsection 6, Code 2003, is amended to read as follows:

6. The department may charge a fee for certifying a person under this section as provided in section 459.316. The fee for certification shall be based on the costs of administering and enforcing this section and paying the expenses of the department relating to certification. A person who is certified as a confinement site manure applicator as provided in this section is exempt from paying the certification fee, if all of the following apply:

- a. ~~The person is certified within one year from the date that a family member has been certified as a confinement site manure applicator.~~
- b. ~~The family member has paid the fee for that family member's own certification.~~

Sec. 12. NEW SECTION. 459.315A DISCIPLINARY ACTION — COMMERCIAL MANURE SERVICE REPRESENTATIVES.

The department may issue an order to suspend or revoke the certification of a commercial manure service representative for a violation of this chapter. The department shall issue an order for the suspension or revocation of a certificate as provided in chapter 17A. The department may issue an order to immediately suspend or revoke the certification notwithstanding section 17A.18.

Sec. 13. Section 459.316, subsection 1, paragraph d, Code 2003, is amended to read as follows:

d. ~~Fees Educational program fees paid by persons required by the department to be certified as commercial manure applicators service representatives or confinement site manure applicators pursuant to section 459.315. The amount of the educational program fees together with commercial manure service licensing fees shall be adjusted annually by the department based on the costs of administering section 459.315 and paying the expenses of the department relating to certification.~~

~~(1) The fee for certification of a commercial manure service representative shall not be more than seventy-five dollars. A commercial manure service licensed pursuant to section 459.314A may pay for the annual certification of its employees. If a commercial manure service makes payment for an employee to be certified as a commercial manure service representative, and that employee leaves employment, the commercial manure service may substitute a new employee to be certified for the former employee. The department shall not charge for the certification of the substituted employee. The department may require that the commercial manure service provide the department with documentation that the substitution is valid. The department shall not charge the fee to a person who is a manager of a commercial manure service licensed pursuant to section 459.314A. The department may require that the commercial manure service provide documentation that a person is a manager.~~

~~(2) A person who is certified as a confinement site manure applicator as provided in section 459.315 is exempt from paying the certification fee if all of the following apply:~~

- a. ~~The person is certified within one year from the date that a family member has been certified as a confinement site manure applicator.~~
- b. ~~The family member has paid the fee for that family member's own certification.~~

Sec. 14. Section 459.316, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Fees paid by persons required by the department to be licensed as a commercial manure service as provided in section 459.314A. The fee for a commercial manure service license shall not be more than two hundred dollars. The amount of the licensing fees together with educational program fees shall be adjusted annually by the department

based on the costs of administering section 459.315 and paying the expenses of the department relating to certification.

Sec. 15. Section 459.316, subsection 2, Code 2003, is amended to read as follows:

2. a. ~~Except as provided in paragraph "b", Compliance~~ fees collected by the department shall be deposited into the animal agriculture compliance fund created in section 459.401.

~~a. Moneys Except as provided in paragraph "b", moneys~~ collected from all fees ~~other than the annual compliance fee~~ shall be deposited into the compliance fund's general account.

~~b. Moneys collected from the annual compliance fee shall be deposited into the compliance fund's assessment account. Moneys collected from commercial manure service license fees and educational program fees shall be deposited into the compliance fund's educational program account.~~

~~b. Receipts that are required to be received by the department from persons required to be certified pursuant to section 459.315 may be used to compensate a person who teaches continuing instructional courses in lieu of deposit into the compliance fund.~~

Sec. 16. Section 459.316, subsection 3, Code 2003, is amended to read as follows:

3. At the end of each fiscal year the department shall determine the balance of unencumbered and unobligated moneys in the assessment account and the educational program account of the animal agriculture compliance fund created pursuant to section 459.401.

a. ~~If on that date June 30,~~ the balance of unencumbered and unobligated moneys in the ~~assessment~~ account is one million dollars or more, the department shall adjust the rate of the annual compliance fee for the following fiscal year. The adjusted rate for the annual compliance fee shall be based on the department's estimate of the amount required to ensure that at the end of the following fiscal year the balance of unencumbered and unobligated moneys in the assessment account is not one million dollars or more.

~~b. If on June 30, the balance of unencumbered and unobligated moneys in the educational program account is twenty-five thousand dollars or more, the department shall adjust the rate of the commercial manure service license fee and the educational program fee for the following fiscal year. The adjusted rate for the fees shall be based on the department's estimate of the amount required to ensure that at the end of the following fiscal year the balance of unencumbered and unobligated moneys in the assessment account is not twenty-five thousand dollars or more.~~

Sec. 17. Section 459.401, subsection 2, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The compliance fund is composed of ~~two~~ three accounts, the general account, ~~and the assessment account,~~ and the educational program account.

Sec. 18. Section 459.401, subsection 2, paragraph a, subparagraph (3), Code 2003, is amended by striking the subparagraph and inserting in lieu thereof the following:

(3) Educational program fees required to be paid by commercial service representatives or confinement site manure applicators pursuant to section 459.316.

(3A) A commercial manure service license fee as provided in section 359.316.¹

Sec. 19. Section 459.401, subsection 2, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The educational program account is composed of moneys collected from the commercial manure service license fee and the educational program fee required pursuant to section 459.316.

Sec. 20. Section 459.401, subsection 5, Code 2003, is amended to read as follows:

5. Notwithstanding section 8.33, any unexpended balance in an account of the compliance

¹ See chapter 179, §73 herein

fund at the end of the fiscal year shall be retained in ~~the fund that account~~. Notwithstanding section 12C.7, subsection 2, interest, earnings on investments, or time deposits of the moneys in an account of the compliance fund shall be credited to ~~the fund that account~~.

Sec. 21. PRIOR PAYMENT OF FEES.

1. a. A manager of a commercial manure service that has paid a certification fee as provided in section 459.315, Code 2003, on or after January 1, 2003, but before the effective date of this Act, shall not be required to pay a fee for a commercial manure service license pursuant to section 459.316 until March 1, 2004.

b. A commercial manure service representative who has paid a certification fee as provided in section 459.315, Code 2003, on or after January 1, 2003, but before the effective date of this Act, shall not be required to pay an educational program fee required pursuant to section 459.316 until March 1, 2005.

2. The department may require that a person who is excused from paying a commercial manure service license fee or an educational program fee as provided in this section provide documentation that the person is excused from paying the fee when being issued a license or becoming certified.

Sec. 22. DIRECTIVE TO CODE EDITOR. The Code editor shall transfer section 459.316, as amended by this Act, to a new section 459.400.

Sec. 23. EFFECTIVE DATES.

1. Except as provided in subsection 2, this Act, being deemed of immediate importance, takes effect upon enactment.

2. Section 459.314A, as enacted in this Act, takes effect January 1, 2004.

Approved May 30, 2003

CHAPTER 164

SALES AND USE TAXES — SAND HANDLING AND CORE AND MOLD MAKING EQUIPMENT

H.F. 654

AN ACT relating to the exemption of sand handling and core and mold making equipment used in the mold making process from sales and use taxes, providing refunds, and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.45, Code 2003, is amended by adding the following new subsection: NEW SUBSECTION. 64. The gross receipts from the sale or rental of core and mold making equipment and sand handling equipment directly and primarily used in the mold making process by a foundry.

Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 64, in this Act, for sales or rentals of core and mold making equipment and sand handling equipment occurring between July 1, 1997, and the effective date of this Act, shall be limited to six hundred thousand dollars in the aggre-