

Reprinted 3/79

FILED FEB 26 1979

SENATE FILE 277

BY COMMITTEE ON AGRICULTURE  
*Chapter 42 (p. 530)*

Passed Senate, Date 3-7-77 (p. 668) Passed House, Date \_\_\_\_\_

Vote: Ayes 45 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved June 10, 1979

### A BILL FOR

1 An Act relating to separation distances of anaerobic lagoons  
2 used in animal feeding operations.

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

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SENATE FILE 277

S-3135

1 Amend Senate File 277 as follows:

2 1. Page 1, by striking line 32 and inserting in  
3 lieu thereof the words "of this paragraph may be  
4 reduced as to the existing or proposed lagoon in  
5 question by the board of adjustment".

6 2. Page 2, line 5, by striking the word "distances"  
7 and inserting in lieu thereof the word "distance".

8 3. Page 2, by striking lines 7 through 9 and  
9 inserting in lieu thereof the words "distances to  
10 landowners of record whose land is located within  
11 the applicable separation distance of the lagoon in  
12 question, and upon the request".

S-3135 FILED *Adopted 3/7 (p. 668)*  
MARCH 2, 1979

BY DALE L. TIEDEN

1 Section 1. Section four hundred fifty-five B point thirteen  
2 (455B.13), subsection three (3), Code 1979, is amended by  
3 adding the following new paragraph:

4 NEW PARAGRAPH.

5 (1) Notwithstanding any other provision of division two  
6 (2) of this chapter and except as provided in subparagraph  
7 two (2) of this paragraph, anaerobic lagoons, which are used  
8 in connection with animal feeding operations containing six  
9 hundred twenty-five thousand pounds or less live animal weight  
10 capacity of animal species other than beef cattle or containing  
11 one million six hundred thousand pounds or less live animal  
12 weight capacity of beef cattle, shall be located at least  
13 one thousand two hundred fifty feet from a residence not owned  
14 by the owner of the feeding operation or from a public use  
15 area other than a public road. Anaerobic lagoons, which are  
16 used in connection with animal feeding operations containing  
17 six hundred twenty-five thousand pounds or more live animal  
18 weight capacity of animal species other than beef cattle or  
19 containing one million six hundred thousand pounds or more  
20 live animal weight capacity of beef cattle, shall be located  
21 at least one thousand eight hundred seventy-five feet from  
22 a residence not owned by the owner of the feeding operation  
23 or from a public use area other than a public road. For the  
24 purpose of this paragraph the determination of live animal  
25 weight capacity shall be based on the average animal weight  
26 capacity during a production cycle and the maximum animal  
27 capacity of the animal feeding operation. These separation  
28 distances shall apply to the construction of new facilities  
29 and the expansion of existing facilities.

30 (2) Upon petition of an owner of an animal feeding  
31 operation, the separation distances of subparagraph one (1)  
32 of this paragraph may be reduced by the board of adjustment  
33 in counties where a zoning ordinance is in effect pursuant  
34 to the provisions of chapter three hundred fifty-eight A  
35 (358A) of the Code or by the board of supervisors in counties

1 that have not adopted zoning ordinances if the reduction is  
2 found not to be injurious to health or offensive to the senses  
3 so as to interfere with the comfortable enjoyment of property  
4 or life. Prior to granting a reduction in the separation  
5 distances, the board of adjustment or the board of supervisors  
6 shall give notice of the petition for reduction of the  
7 distances to landowners of record whose land is located in  
8 the area covered by the separation distances designated in  
9 subparagraph one (1) of this paragraph, and upon the request  
10 of such a landowner shall provide a public hearing on the  
11 petition no sooner than thirty days after the mailing of the  
12 notice. The notice shall state that the landowner has a right  
13 to contest the reduction in the separation distance and that  
14 a hearing may be requested.

15 Sec. 2. This Act, being deemed of immediate importance,  
16 shall take effect from and after its publication in the Carroll  
17 Daily Times-Herald, a newspaper published in Carroll, Iowa,  
18 and in the Allamakee Journal, a newspaper published in Lansing,  
19 Iowa.

#### 20 EXPLANATION

21 This bill sets minimum distances that an anaerobic lagoon  
22 used in connection with an animal feeding operation may be  
23 placed from a public use area other than a public road or  
24 from a residence not owned by the owner of the feeding  
25 operation. These distances vary depending on the type of  
26 animals in the feeding operation and the capacity of the feed  
27 lot. The minimum distance is 1250 feet if the operation  
28 contains 625,000 pounds or less of animals other than beef  
29 cattle or 1,600,000 pounds of beef cattle. The minimum  
30 distance is 1875 feet for operations with larger feeding  
31 capacity.

32 This bill also provides for a reduction in the separation  
33 distances if the board of adjustment in counties that have  
34 zoning and the board of supervisors in counties without zoning  
35 finds the reduction will not be injurious to health or

1 offensive to the senses so as to interfere with the comfortable  
2 enjoyment of property or life. Landowners within the area  
3 covered by the separation distance have a right to notice  
4 and hearing prior to the granting of a reduction.

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SENATE FILE 277

By COMMITTEE ON AGRICULTURE

*Sub. of H.F. 498 5/4*  
(AS AMENDED AND PASSED BY THE SENATE MARCH 7, 1979)

Re Passed Senate, Date 5-11-79 (p. 17.28) Passed House, Date 5-9-79 (p. 2197)  
Vote: Ayes 47 Nays 0 Vote: Ayes 58 Nays 41  
Approved June 10, 1979

### A BILL FOR

1 An Act relating to separation distances of anaerobic lagoons  
2 used in animal feeding operations.

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

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**—————** = New Language  
by the Senate

1 Section 1. Section four hundred fifty-five B point thirteen  
2 (455B.13), subsection three (3), Code 1979, is amended by  
3 adding the following new paragraph:

4 NEW PARAGRAPH.

5 (1) Notwithstanding any other provision of division two  
6 (2) of this chapter and except as provided in subparagraph  
7 two (2) of this paragraph, anaerobic lagoons, which are used  
8 in connection with animal feeding operations containing six  
9 hundred twenty-five thousand pounds or less live animal weight  
10 capacity of animal species other than beef cattle or containing  
11 one million six hundred thousand pounds or less live animal  
12 weight capacity of beef cattle, shall be located at least  
13 one thousand two hundred fifty feet from a residence not owned  
14 by the owner of the feeding operation or from a public use  
15 area other than a public road. Anaerobic lagoons, which are  
16 used in connection with animal feeding operations containing  
17 six hundred twenty-five thousand pounds or more live animal  
18 weight capacity of animal species other than beef cattle or  
19 containing one million six hundred thousand pounds or more  
20 live animal weight capacity of beef cattle, shall be located  
21 at least one thousand eight hundred seventy-five feet from  
22 a residence not owned by the owner of the feeding operation  
23 or from a public use area other than a public road. For the  
24 purpose of this paragraph the determination of live animal  
25 weight capacity shall be based on the average animal weight  
26 capacity during a production cycle and the maximum animal  
27 capacity of the animal feeding operation. These separation  
28 distances shall apply to the construction of new facilities  
29 and the expansion of existing facilities.

30 (2) Upon petition of an owner of an animal feeding  
31 operation, the separation distances of subparagraph one (1)  
32 of this paragraph may be reduced as to the existing or proposed  
33 lagoon in question by the board of adjustment in counties  
34 where a zoning ordinance is in effect pursuant to the  
35 provisions of chapter three hundred fifty-eight A (358A) of

1 the Code or by the board of supervisors in counties that have  
2 not adopted zoning ordinances if the reduction is found not  
3 to be injurious to health or offensive to the senses so as  
4 to interfere with the comfortable enjoyment of property or  
5 life. Prior to granting a reduction in the separation  
6 distance, the board of adjustment or the board of supervisors  
7 shall give notice of the petition for reduction of the  
8 distances to landowners of record whose land is located within  
9 the applicable separation distance of the lagoon in question,  
10 and upon the request of such a landowner shall provide a  
11 public hearing on the petition no sooner than thirty days  
12 after the mailing of the notice. The notice shall state that  
13 the landowner has a right to contest the reduction in the  
14 separation distance and that a hearing may be requested.

15 Sec. 2. This Act, being deemed of immediate importance,  
16 shall take effect from and after its publication in the Carroll  
17 Daily Times-Herald, a newspaper published in Carroll, Iowa,  
18 and in the Allamakee Journal, a newspaper published in Lansing,  
19 Iowa.

#### 20 EXPLANATION

21 This bill sets minimum distances that an anaerobic lagoon  
22 used in connection with an animal feeding operation may be  
23 placed from a public use area other than a public road or  
24 from a residence not owned by the owner of the feeding  
25 operation. These distances vary depending on the type of  
26 animals in the feeding operation and the capacity of the feed  
27 lot. The minimum distance is 1250 feet if the operation  
28 contains 625,000 pounds or less of animals other than beef  
29 cattle or 1,600,000 pounds of beef cattle. The minimum  
30 distance is 1875 feet for operations with larger feeding  
31 capacity.

32 This bill also provides for a reduction in the separation  
33 distances if the board of adjustment in counties that have  
34 zoning and the board of supervisors in counties without zoning  
35 finds the reduction will not be injurious to health or

1 offensive to the senses so as to interfere with the comfortable  
2 enjoyment of property or life. Landowners within the area  
3 covered by the separation distance have a right to notice  
4 and hearing prior to the granting of a reduction.

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SF 277  
gk/slc/26c

SENATE FILE 277

H-3390

- 1 Amend Senate File 277 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 1, by striking lines 32 through 35 and
- 4 inserting in lieu thereof the following: "of this
- 5 paragraph may be reduced for a proposed lagoon or
- 6 expansion of an existing lagoon by the county board
- 7 of adjustment in counties where a county zoning
- 8 ordinance is in effect pursuant to the provisions
- 9 of chapter three hundred fifty-eight A (358A) of the
- 10 Code, by the board of supervisors if the lagoon or
- 11 the expansion of a lagoon is to be located outside
- 12 a city's zoning jurisdiction and a county zoning
- 13 ordinance has not been adopted, and by the city board
- 14 of adjustment if the lagoon or the expansion of a
- 15 lagoon is to be located within a city's zoning
- 16 jurisdiction and a city zoning ordinance is in effect
- 17 pursuant to the provisions of chapter four hundred
- 18 fourteen (414) of the Code".
- 19 2. Page 2, by striking lines 1 and 2 and inserting
- 20 in lieu thereof the words "if the reduction is found
- 21 not".
- 22 3. Page 2, by striking line 6 and inserting in
- 23 lieu thereof the words "distance, the county board
- 24 of adjustment, the board of supervisors, or the city
- 25 board of adjustment, as appropriate,".

H-3390 FILED *Placed out of order* BY SPEAR of Lee  
MARCH 13, 1979 *5/4 (p. 2197)*

SENATE FILE 277

H-3382

- 1 Amend Senate File 277 as amended, passed and
- 2 reprinted by the Senate as follows:
- 3 1. Page 1, line 13, by striking the words "two
- 4 hundred fifty" and inserting in lieu thereof the words
- 5 "eight hundred seventy-five".
- 6 2. Page 1, line 21, by striking the words "one
- 7 thousand eight hundred seventy-five" and inserting
- 8 in lieu thereof the words "two thousand five hundred".

H-3382 FILED *Lost 5/9 (p. 2198)* BY SPEAR of Lee  
MARCH 13, 1979

SENATE FILE 277

H-3983

- 1 Amend Senate File 277 as amended, passed and re-
- 2 printed by the Senate as follows:
- 3 1. Page 1, lines 6 and 7, by striking the words
- 4 "and except as provided in subparagraph two (2) of
- 5 this paragraph".
- 6 2. Page 1, by striking lines 30 through 35.
- 7 3. Page 2, by striking lines 1 through 14.

H-3983 FILED *Adopted 5/10 (p. 2197)* BY SCHROEDER of Pottawattamie  
APRIL 18, 1979 SCHNEKLOTH of Sc

SENATE FILE 277

H-3408

1 Amend Senate File 277, as amended, passed and  
2 reprinted by the Senate as follows:  
3 1. Page 2, line 9, by striking the word "question,"  
4 and inserting in lieu thereof the word "question."  
5 2. Page 2, by striking lines 10 through 14 and  
6 inserting in lieu thereof the following: "If a public  
7 use area other than a public road is located within  
8 the area covered by such separation distance, then  
9 notice of the petition for reduction of the separation  
10 distance shall also be published in a county newspaper  
11 of general circulation. The notice shall state that  
12 the landowner, or three eligible electors residing  
13 in the county or an adjacent county when a public  
14 use area other than a road would be affected by the  
15 proposed reduction, have a right to request a hearing  
16 to contest the petition for reduction of the separation  
17 distances within thirty days of mailing or publication  
18 of the notice. Upon the request of such a landowner  
19 or electors, a public hearing shall be held no sooner  
20 than forty-five days after the mailing or publication  
21 of the notice of the right to request a hearing.  
22 Notice of the purpose, time and location of the hearing  
23 shall be sent by ordinary mail to the parties  
24 requesting the hearing at least ten days before the  
25 hearing. If a public use area other than a road would  
26 be affected by the proposed reduction, the notice  
27 of the hearing shall be published at least ten days  
28 before the hearing in a county newspaper of general  
29 circulation. The cost of publishing notice of the  
30 application and hearing in a county newspaper shall  
31 be paid by the anaerobic lagoon owner."

H-3408 FILED  
MARCH 14, 1979

*Placed out of order 5/9  
(p. 2197)*

BY SPEAR of Lee

SENATE FILE 277

H-3886

1 Amend the Spear amendment, H-3382, to Senate File  
2 277 as amended, passed and reprinted by the Senate  
3 as follows:  
4 1. Page 1, by striking lines 3 through 5 and  
5 inserting in lieu thereof the following:  
6 "1. Page 1, line 13, by striking the words "one  
7 thousand two hundred fifty" and inserting in lieu  
8 thereof the words "two thousand five hundred"."  
9 2. Page 1, line 8, by striking the words "two  
10 thousand five hundred" and inserting in lieu thereof  
11 the words "three thousand one hundred fifty".

H-3886 FILED *W/Drawn 5/9 (p. 2197)* BY SPEAR of Lee  
APRIL 12, 1979

SENATE FILE 277

H-4354

1 Amend Senate File 277 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 1, lines 6 and 7, by striking the words  
4 and figure "subparagraph two (2)" and inserting in  
A 5 lieu thereof the words and figures "subparagraphs  
6 two (2) through four (4)".

7 2. Page 2, by inserting after line 14 the following  
8 new subparagraph:

9 "(3) A person may build an anaerobic lagoon closer  
10 to a residence not owned by the owner of the feeding  
B 11 operation or to a public use area than is otherwise  
12 permitted by subparagraph one (1) of this paragraph,  
13 if the affected landowners enter into a written  
14 agreement with the anaerobic lagoon owner to waive  
15 the separation distances under such terms as the  
16 parties may negotiate. The written agreement shall  
17 become effective only upon recording in the office  
18 of the recorder of deeds of the county in which the  
19 residence is located."

H-4354 FILED MAY 9, 1979

BY COCHRAN of Webster

A - WITHDRAWN (p. 2195)

B - ADOPTED AS AMENDED by 4356 (p. 2197)

SENATE FILE 277

H-4356

1 Amend amendment H-4354 to Senate File 277 as  
2 amended, passed and reprinted by the Senate as  
3 follows:

4 1. Page 1, line 9, by inserting after the  
5 word "build" the words "or expand".

H-4356 FILED MAY 9, 1979

BY SPEAR of Lee

ADOPTED BY UNANIMOUS CONSENT (2198)

HOUSE AMENDMENT TO SENATE FILE 277

S-3760

1 Amend Senate File 277 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 1, lines 6 and 7, by striking the words  
4 "and except as provided in subparagraph two (2) of  
5 this paragraph".

6 2. Page 1, by striking lines 30 through 35.

7 3. Page 2, by striking lines 1 through 14.

8 4. Page 2, by inserting after line 14 the following  
9 new subparagraph:

10 "(3) A person may build or expand an anaerobic  
11 lagoon closer to a residence not owned by the owner  
12 of the feeding operation or to a public use area than  
13 is otherwise permitted by subparagraph one (1) of  
14 this paragraph, if the affected landowners enter into  
15 a written agreement with the anaerobic lagoon owner  
16 to waive the separation distances under such terms  
17 as the parties may negotiate. The written agreement  
18 shall become effective only upon recording in the  
19 office of the recorder of deeds of the county in which  
20 the residence is located."

S-3760 FILED  
MAY 9, 1979

RECEIVED FROM THE HOUSE

*Senate concurred 5/11 (p. 1725)*

SENATE FILE 277

AN ACT  
RELATING TO SEPARATION DISTANCES OF ANAEROBIC LAGOONS USED  
IN ANIMAL FEEDING OPERATIONS.

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

Section 1. Section four hundred fifty-five B point thirteen (455B.13), subsection three (3), Code 1979, is amended by adding the following new paragraph:

NEW PARAGRAPH.

(1) Notwithstanding any other provision of division two (11) of this chapter, anaerobic lagoons, which are used in connection with animal feeding operations containing six

hundred twenty-five thousand pounds or less live animal weight capacity of animal species other than beef cattle or containing one million six hundred thousand pounds or less live animal weight capacity of beef cattle, shall be located at least one thousand two hundred fifty feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. Anaerobic lagoons, which are used in connection with animal feeding operations containing six hundred twenty-five thousand pounds or more live animal weight capacity of animal species other than beef cattle or containing one million six hundred thousand pounds or more live animal weight capacity of beef cattle, shall be located at least one thousand eight hundred seventy-five feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. For the purpose of this paragraph the determination of live animal weight capacity shall be based on the average animal weight capacity during a production cycle and the maximum animal capacity of the animal feeding operation. These separation distances shall apply to the construction of new facilities and the expansion of existing facilities.

(2) A person may build or expand an anaerobic lagoon closer to a residence not owned by the owner of the feeding operation or to a public use area than is otherwise permitted by subparagraph one (1) of this paragraph, if the affected landowners enter into a written agreement with the anaerobic lagoon owner to waive the separation distances under such terms as the parties may negotiate. The written agreement shall become effective only upon recording in the office of the recorder of deeds of the county in which the residence is located.

Sec. 2. This Act, being deemed of immediate importance, shall take effect from and after its publication in the Carroll

Daily Times-Herald, a newspaper published in Carroll, Iowa,  
and in the Allamakee Journal, a newspaper published in Lansing,  
Iowa.

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TERRY E. BRANSTAD  
President of the Senate

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FLOYD H. MILLEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and  
is known as Senate File 277, Sixty-eighth General Assembly.

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FRANK J. STORK  
Secretary of the Senate

Approved June 10, 1979

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ROBERT D. RAY  
Governor