

Senate Amendment 5168

Amendment Text

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1 1 Amend [Senate File 2037](#) as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 "Section 1. NEW SECTION. 331.309 AGRICULTURAL
1 5 DRAINAGE WELLS - PENALTY.
1 6 1. The owner of land shall do all of the following
1 7 by July 1, 1998:
1 8 a. If the land contains a surface water intake
1 9 emptying into an agricultural drainage well, including
1 10 a surface water intake located in a road ditch, the
1 11 owner shall remove the surface water intake by July 1,
1 12 1998. This surface-water-intake removal requirement
1 13 does not require a person to remove or prohibit a
1 14 person from installing a tile line that empties into
1 15 an agricultural drainage well, if the tile line does
1 16 not have a surface water intake.
1 17 b. If the land contains a cistern connecting to an
1 18 agricultural drainage well, the owner shall construct
1 19 and maintain sidewalls surrounding the cistern in
1 20 order to prevent surface water runoff directly
1 21 emptying into the agricultural drainage well.
1 22 c. If the land contains an agricultural drainage
1 23 well, the owner shall install a vented cover over the
1 24 agricultural drainage well in order to prevent surface
1 25 water runoff directly emptying into the agricultural
1 26 drainage well.
1 27 2. A county may adopt minimum standards to
1 28 administer the requirements of this section. The
1 29 department of natural resources shall provide
1 30 information relating to owners registering
1 31 agricultural drainage wells pursuant to section 159.29
1 32 to each county board of supervisors and each drainage
1 33 district organized pursuant to chapter 468, where an
1 34 agricultural drainage well is registered.
1 35 3. Landowners of land where an agricultural
1 36 drainage well is located shall be notified of the
1 37 deadline for complying with this section by print,
1 38 electronic media, or other notification process, as
1 39 follows:
1 40 a. If the agricultural drainage well is not
1 41 located on land within a drainage district as provided
1 42 in chapter 468, the county shall provide the notice.
1 43 b. If the agricultural drainage well is located on
1 44 land within a drainage district as provided in chapter
1 45 468, the board of the drainage district shall provide
1 46 the notice, unless the county and the district
1 47 determine that notice will be provided by the county.
1 48 4. A surface tile emptying into an agricultural
1 49 drainage well shall be inspected to ensure compliance
1 50 with this section, as follows:
2 1 a. If the agricultural drainage well is not within
2 2 a drainage district as provided in chapter 468, the
2 3 inspection shall be made as required by the county
2 4 board of supervisors.
2 5 b. If the agricultural drainage well is located on
2 6 land which is within a drainage district as provided
2 7 in chapter 468, the inspection shall be made as

2 8 required by the board of the drainage district, unless
2 9 the county and the district determine that inspection
2 10 will be made by the county.

2 11 The expenses incurred by the board of supervisors
2 12 for notification, inspection, and recordation shall be
2 13 paid equally by landowners in the county who own land
2 14 where there is located an agricultural drainage well.
2 15 The amount shall be placed upon the tax books, and
2 16 collected with interest and penalties after due, in
2 17 the same manner as other unpaid property taxes.
2 18 However, if expenses are incurred by the board of the
2 19 drainage district, the amount shall be charged to the
2 20 landowners in the district.

2 21 5. A person who does not comply with this section
2 22 is guilty of a simple misdemeanor. However, if a
2 23 person was guilty of violating this section and again
2 24 violates this section by not taking action necessary
2 25 to correct a previous violation within sixty days
2 26 after judgment is entered, the person is guilty of a
2 27 serious misdemeanor. If a person was guilty of
2 28 violating this section two or more times and again
2 29 violates this section by not taking action necessary
2 30 to correct a previous violation within sixty days
2 31 after the last judgment is entered, the person is
2 32 guilty of an aggravated misdemeanor.

2 33 Sec. 2. Section 455B.173, subsection 13, Code
2 34 Supplement 1995, is amended to read as follows:

2 35 13. a. Adopt, modify, or repeal rules relating to
2 36 the construction or operation of animal feeding
2 37 operations. The rules shall include, but are not
2 38 limited to, minimum manure control requirements,
2 39 requirements for obtaining permits, and departmental
2 40 evaluations of animal feeding operations. The
2 41 department shall not require that a person obtain a
2 42 permit for the construction of an animal feeding
2 43 operation structure, if the structure is part of a
2 44 small animal feeding operation.

2 45 b. The department shall collect an indemnity fee
2 46 as provided in section 204.3 prior to the issuance of
2 47 a construction permit. The department shall deposit
2 48 moneys collected in indemnity fees in the manure
2 49 storage indemnity fund created in section 204.2.

2 50 c. The department shall not approve a permit for
3 1 the construction of three or more animal feeding
3 2 operation structures unless the applicant files a
3 3 statement approved by a professional engineer
3 4 registered pursuant to chapter 542B certifying that
3 5 the construction of the animal feeding operation
3 6 structure will not impede the drainage through
3 7 established drainage tile lines which cross property
3 8 boundary lines unless measures are taken to
3 9 reestablish the drainage prior to completion of
3 10 construction.

~~The department shall deposit moneys~~

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3 11

~~collected in indemnity fees in the manure storage~~

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3 12

~~indemnity fund created in section 204.2.~~

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3 13 d. The department shall issue a permit for an
3 14 animal feeding operation, if an application is
3 15 submitted according to procedures required by the

3 16 department according to this section, and the
3 17 application meets standards established by the
3 18 department, regardless of whether the animal feeding
3 19 operation is required to obtain such a permit. An
3 20 applicant for a construction permit shall not begin
3 21 construction at the location of a site planned for the
3 22 construction of an animal feeding operation structure,
3 23 until the person has been granted a permit for the
3 24 construction of the structure by the department.
3 25 e. The department shall make a determination
3 26 regarding the approval or denial of a permit within
3 27 sixty days from the date that the department receives
3 28 a completed application for

~~— a~~
— the approval of the

3 29 permit, as provided in this paragraph. However, the
3 30 sixty-day requirement shall not apply to an
3 31 application, if the applicant is not required to
3 32 obtain a permit in order to construct an animal
3 33 feeding operation structure or to operate an animal
3 34 feeding operation. The department shall deliver a
3 35 copy or require the applicant to deliver a copy of the
3 36 application for a construction permit to the county
3 37 board of supervisors in the county where the
3 38 confinement feeding operation or

~~— confinement~~
— animal

3 39 feeding operation structure subject to the permit is
3 40 to be located. Upon receipt of an application for
3 41 departmental approval under this section, the
3 42 department shall determine if the application complies
3 43 with all permit requirements. The process of
3 44 approving or disapproving a permit shall be as
3 45 follows:

3 46 (1) If the total animal weight capacity of all
3 47 permitted confinement feeding operations in the county
3 48 is less than fifty million pounds, the department
3 49 shall not approve the application or issue a
3 50 construction permit until thirty days following
4 1 delivery of the application to the county board of
4 2 supervisors. The department shall consider comments
4 3 from the county board of supervisors, regarding
4 4 compliance by the applicant with the legal
4 5 requirements for the construction of the confinement
4 6 feeding operation structure as provided in this
4 7 chapter, and rules adopted by the department pursuant
4 8 to this chapter, if the comments are delivered to the
4 9 department within fourteen days after receipt of the
4 10 application by the county board of supervisors.

4 11 (2) If the total animal weight capacity of all
4 12 permitted confinement feeding operations in the county
4 13 is fifty million pounds or more, the department shall
4 14 not approve the application or issue a construction
4 15 permit until the county has approved the application.
4 16 The county shall receive the application from the
4 17 applicant or the department as required by the
4 18 department. Within sixty days after receipt of the
4 19 application by the county board of supervisors, the
4 20 board shall either approve or disapprove the
4 21 application; endorse its approval or disapproval on
4 22 the application; and forward the application to the
4 23 department as required by the department. An
4 24 application which is not received by the department in
4 25 a timely manner shall be deemed to be approved by the
4 26 department.

4 27 f. Prior to granting a permit to a person for the
4 28 construction of an animal feeding operation, the
4 29 department may require the installation and operation
4 30 of a hydrological monitoring system for an exclusively
4 31 earthen manure storage structure, if, after an on-site
4 32 inspection, the department determines that the site
4 33 presents an extraordinary potential for groundwater
4 34 pollution.

4 35 g. A person shall not obtain a permit for the
4 36 construction of a confinement feeding operation,
4 37 unless the person develops a manure management plan as
4 38 provided in section 455B.203.

4 39 h. The department shall not issue a permit to a
4 40 person under this subsection if an enforcement action
4 41 by the department, relating to a violation of this
4 42 chapter concerning a confinement feeding operation in
4 43 which the person has an interest, is pending. The
4 44 department shall not issue a permit to a person under
4 45 this subsection for five years after the date of the
4 46 last violation committed by a person or confinement
4 47 feeding operation in which the person holds a
4 48 controlling interest during which the person or
4 49 operation was classified as a habitual violator under
4 50 section 455B.191. The department shall conduct an
5 1 annual review of each confinement feeding operation
5 2 which is a habitual violator and each confinement
5 3 feeding operation in which a habitual violator holds a
5 4 controlling interest. The department shall notify
5 5 persons classified as habitual violators of their
5 6 classification, additional restrictions imposed upon
5 7 the persons pursuant to the classification, and
5 8 special civil penalties that may be imposed upon the
5 9 persons. The notice shall be sent to the persons by
5 10 certified mail.

5 11 Sec. 3. Section 455B.201, subsection 4, Code
5 12 Supplement 1995, is amended by adding the following
5 13 new subsection:

5 14 4. A person shall not use spray irrigation
5 15 equipment to apply manure on land from which water
5 16 drains into an agricultural drainage well. A person
5 17 shall not otherwise apply manure by spray irrigation
5 18 equipment, except as provided by rules which shall be
5 19 adopted by the department pursuant to chapter 17A.

5 20 Sec. 4. Section 455B.203, subsection 1, Code
5 21 Supplement 1995, is amended to read as follows:
5 22 1.

~~In order to receive a permit for the~~

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5 23

~~construction of a~~

~~- A person constructing an animal~~

5 24 feeding operation structure which is part of a
5 25 confinement feeding operation,

~~as provided in section~~

~~-~~
5 26

~~455B.173~~

~~- other than a small animal feeding operation,~~

5 27

~~- a person~~

~~- shall submit a manure management plan to the~~

5 28 department. If the person is required to obtain a

5 29 construction permit for a confinement feeding
5 30 operation as provided in section 455B.173, the person
5 31 shall submit the manure management plan together with
5 32 the application for a construction permit. If the
5 33 person is not required to obtain a construction
5 34 permit, the person shall submit the manure management
5 35 plan prior to construction."

5 36 #2. Title page, by striking lines 2 and 3 and
5 37 inserting the following: "drainage, construction
5 38 permits, and manure management plans".

5 39 #3. By renumbering as necessary.

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5 43 STEWART IVERSON, Jr.

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