

# Senate Amendment 5169

## Amendment Text

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1 1 Amend [Senate File 2220](#) 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~~

~~-~~  
3 11

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

~~-~~  
3 12

~~indemnity fund created in section 204.2.~~

~~-~~  
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~~

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 5 through 8 and  
5 37 inserting the following: "of natural resources and  
5 38 other entitles."

5 39 #3. By renumbering as necessary.

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5 43 STEWART IVERSON, Jr.

5 44 SF 2220.301 76

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