

Senate Amendment 5228

Amendment Text

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1 1 Amend [Senate File 2037](#) as follows:
1 2 #1. By striking page 1, line 29, through page 4,
1 3 line 14, and inserting the following:
1 4 "Sec. _____. Section [9H.5A](#), subsection 3, paragraph
1 5 g, Code Supplement 1995, is amended to read as
1 6 follows:
1 7 g. The approximate number of livestock, including
1 8 cattle, sheep, swine, ostriches, rheas, emus, or
1 9 poultry, owned, contracted for, or kept by the
1 10 corporation, limited liability company, trust, or
1 11 limited partnership;

~~_____ and~~
- the approximate number of
1 12 offspring produced from the livestock; and for each
1 13 county the animal weight capacity of each confinement
1 14 feeding operation in which swine are fed.
1 15 Sec. _____. Section [9H.5B](#), Code 1995, is amended by
1 16 adding the following new subsection:
1 17 NEW SUBSECTION. 4. For each county, the animal
1 18 weight capacity of each confinement feeding operation
1 19 in which swine are fed pursuant to a care and feeding
1 20 contract in which the contract feeder is a party.
1 21 Sec. _____. NEW SECTION. 9H.5C REPORTS BY
1 22 CONFINEMENT FEEDING OPERATIONS.
1 23 A person who owns confinement feeding operations
1 24 having a total animal weight capacity of seven million
1 25 five hundred thousand pounds or more shall file with
1 26 the secretary of state on or before March 31 of each
1 27 year, a report stating all of the following:
1 28 1. The name and address of the person.
1 29 2. The total animal weight capacity of all
1 30 confinement feeding operations which are owned by the
1 31 person.
1 32 3. For each county, the animal weight capacity of
1 33 all confinement feeding operations which are owned by
1 34 the person.
1 35 4. Whether the person is required to file a report
1 36 as a contract feeder pursuant to section 9H.5B.
1 37 Sec. _____. Section [9H.14](#), Code 1995, is amended to
1 38 read as follows:
1 39 9H.14 DUTIES OF SECRETARY OF STATE.
1 40 1.

~~The secretary of state shall notify the~~

1 41

~~attorney general when the secretary of state has~~

1 42

~~reason to believe a violation of this chapter has~~

1 43

~~occurred. It is the intent of this section that~~

1 44

~~information~~

~~Information compiled from reports required~~

1 45 ~~under this section~~ shall be made available to members
1 46 of the general assembly and appropriate committees of
1 47 the general assembly in order to determine the extent
1 48 of farming being carried out in this state by
1 49 corporations and other business entities and the
1 50 effect of such farming practices upon the economy of
2 1 this state. ~~The secretary of state shall assist any~~
2 2 ~~committee of the general assembly existing or~~
2 3 ~~established for the purposes of studying the effects~~
2 4 ~~of this chapter and the practices this chapter seeks~~
2 5 ~~to study and regulate.~~
2 6 2.

~~The~~

~~Notwithstanding chapter 22,~~ reports of

2 7 corporations, limited liability companies, limited
2 8 partnerships, trusts, contractors, and processors
2 9 required in this chapter shall be confidential

~~reports~~

2 10

~~except as to the~~

~~However, the reports may be made~~

2 11 ~~available to the~~ attorney general for review and
2 12 appropriate action when necessary. ~~Information~~
2 13 ~~regarding confinement swine feeding enterprises as~~
2 14 ~~defined in section 455B.171, shall not be~~
2 15 ~~confidential.~~
2 16 3. The secretary of state shall

~~assist any~~

2 17

~~committee of the general assembly existing or~~

2 18

~~established for the purposes of studying the effects~~

2 19

~~of this chapter and the practices this chapter seeks~~

2 20

~~to study and regulate~~

~~each year compile information~~

2 21 ~~regarding commercial confinement swine feeding~~
2 22 ~~enterprises. The information shall be made available~~
2 23 ~~upon request to a county. The information may be~~
2 24 ~~compiled from reports required to be filed pursuant to~~
2 25 ~~this chapter, including sections 9H.5A, 9H.5B, and~~
2 26 ~~9H.5C, and financing statements required to be filed~~
2 27 ~~pursuant to section 554.9401.~~

2 28 Sec. _____. Section 455B.171, Code Supplement 1995,
2 29 is amended by adding the following new subsection:

2 30 NEW SUBSECTION. 4A. "Confinement swine feeding
2 31 enterprise" means a person who owns or is a party to a
2 32 contract for the care and feeding of swine, if the

2 33 swine are fed in confinement feeding operations and
2 34 the total animal weight capacity of all confinement
2 35 feeding operations in which the swine are fed in this
2 36 state is seven million five hundred thousand pounds or
2 37 more.

2 38 A confinement swine feeding operation which is
2 39 owned by a person holding an interest in a profit or
2 40 nonprofit entity, shall not be considered when
2 41 calculating animal weight capacity and shall not be
2 42 considered as part of a confinement swine feeding
2 43 enterprise, unless the swine are owned by the business
2 44 entity or subject to a contract for their care and
2 45 feeding in which the enterprise is a party.

2 46 Sec. _____. Section 455B.173, subsection 13, Code
2 47 Supplement 1995, is amended to read as follows:

2 48 13. a. Adopt, modify, or repeal rules relating to
2 49 the construction or operation of animal feeding
2 50 operations. The rules shall include, but are not
3 1 limited to, minimum manure control requirements,
3 2 requirements for obtaining permits, and departmental
3 3 evaluations of animal feeding operations. The
3 4 department shall not require that a person obtain a
3 5 permit for the construction of an animal feeding
3 6 operation structure, if the structure is part of a
3 7 small animal feeding operation.

3 8 b. The department shall collect an indemnity fee
3 9 as provided in section 204.3 prior to the issuance of
3 10 a construction permit. The department shall deposit
3 11 moneys collected in indemnity fees in the manure
3 12 storage indemnity fund created in section 204.2.

3 13 c. The department shall not approve a permit for
3 14 the construction of three or more animal feeding
3 15 operation structures unless the applicant files a
3 16 statement approved by a professional engineer
3 17 registered pursuant to chapter 542B certifying that
3 18 the construction of the animal feeding operation
3 19 structure will not impede the drainage through
3 20 established drainage tile lines which cross property
3 21 boundary lines unless measures are taken to
3 22 reestablish the drainage prior to completion of
3 23 construction.

~~The department shall deposit moneys~~

3 24

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

3 25

~~indemnity fund created in section 204.2.~~

3 26 d. The department shall issue a permit for an
3 27 animal feeding operation, if an application is
3 28 submitted according to procedures required by the
3 29 department according to this section, and the
3 30 application meets standards established by the
3 31 department, regardless of whether the animal feeding
3 32 operation is required to obtain such a permit. An
3 33 applicant for a construction permit shall not begin
3 34 construction at the location of a site planned for the
3 35 construction of an animal feeding operation structure,
3 36 until the person has been granted a permit for the
3 37 construction of the structure by the department.

3 38 e. The department shall make a determination
3 39 regarding the approval or denial of a permit within
3 40 sixty days from the date that the department receives

3 41 a completed application for

~~a~~
- the approval of the

3 42 permit, as provided in this paragraph. However, the
3 43 sixty-day requirement shall not apply to an
3 44 application, if the applicant is not required to
3 45 obtain a permit in order to construct an animal
3 46 feeding operation structure or to operate an animal
3 47 feeding operation. The department shall deliver a
3 48 copy or require the applicant to deliver a copy of the
3 49 application for a construction permit to the county
3 50 board of supervisors in the county where the
4 1 confinement feeding operation or confinement feeding
4 2 operation structure subject to the permit is to be
4 3 located. Upon receipt of an application for
4 4 departmental approval under this subsection, the
4 5 department shall determine if the application complies
4 6 with all permit requirements. The process of
4 7 approving or disapproving a permit shall be as
4 8 follows:

4 9 (1) If the confinement feeding operation is not a
4 10 confinement swine feeding enterprise, the department
4 11 shall not approve the application or issue a
4 12 construction permit until thirty days following
4 13 delivery of the application to the county board of
4 14 supervisors. The department shall consider comments
4 15 from the county board of supervisors, regarding
4 16 compliance by the applicant with the legal
4 17 requirements for the construction of the confinement
4 18 feeding operation structure as provided in this
4 19 chapter, and rules adopted by the department pursuant
4 20 to this chapter, if the comments are delivered to the
4 21 department within fourteen days after receipt of the
4 22 application by the county board of supervisors.

4 23 (2) If the confinement feeding operation is a
4 24 confinement swine feeding enterprise, the department
4 25 shall not approve the application unless the
4 26 department receives the approval of the application
4 27 from the county.

4 28 f. Prior to granting a permit to a person for the
4 29 construction of an animal feeding operation, the
4 30 department may require the installation and operation
4 31 of a hydrological monitoring system for an exclusively
4 32 earthen manure storage structure, if, after an on-site
4 33 inspection, the department determines that the site
4 34 presents an extraordinary potential for groundwater
4 35 pollution.

4 36 g. A person shall not obtain a permit for the
4 37 construction of a confinement feeding operation,
4 38 unless the person develops a manure management plan as
4 39 provided in section 455B.203.

4 40 h. The department shall not issue a permit to a
4 41 person under this subsection if an enforcement action
4 42 by the department, relating to a violation of this
4 43 chapter concerning a confinement feeding operation in
4 44 which the person has an interest, is pending. The
4 45 department shall not issue a permit to a person under
4 46 this subsection for five years after the date of the
4 47 last violation committed by a person or confinement
4 48 feeding operation in which the person holds a
4 49 controlling interest during which the person or
4 50 operation was classified as a habitual violator under
5 1 section 455B.191. The department shall conduct an
5 2 annual review of each confinement feeding operation
5 3 which is a habitual violator and each confinement
5 4 feeding operation in which a habitual violator holds a

5 5 controlling interest. The department shall notify
5 6 persons classified as habitual violators of their
5 7 classification, additional restrictions imposed upon
5 8 the persons pursuant to the classification, and
5 9 special civil penalties that may be imposed upon the
5 10 persons. The notice shall be sent to the persons by
5 11 certified mail.

5 12 Sec. _____. Section 554.9402, subsection 1, Code
5 13 1995, is amended to read as follows:

5 14 1. A financing statement is sufficient if it gives
5 15 the names of the debtor and the secured party, is
5 16 signed by the debtor, gives an address of the secured
5 17 party from which information concerning the security
5 18 interest may be obtained, gives a mailing address of
5 19 the debtor and contains a statement indicating the
5 20 types, or describing the items, of collateral. A
5 21 financing statement may be filed before a security
5 22 agreement is made or a security interest otherwise
5 23 attaches. When the financing statement covers crops
5 24 growing or to be grown, the statement must also
5 25 contain a description of the real estate concerned.
5 26 When a financing statement covers swine fed in a
5 27 confinement feeding operation as provided in section
5 28 455B.161, the financing statement shall state the
5 29 animal weight capacity of the confinement feeding
5 30 operation as verified by the debtor. When the
5 31 financing statement covers timber to be cut or covers
5 32 minerals or the like (including oil and gas) or
5 33 accounts subject to section 554.9103, subsection 5, or
5 34 when the financing statement is filed as a fixture
5 35 filing (section 554.9313) and the collateral is goods
5 36 which are or are to become fixtures, the statement
5 37 must also comply with subsection 5. A copy of the
5 38 security agreement is sufficient as a financing
5 39 statement if it contains the above information and is
5 40 signed by the debtor. A copy of a jobs training
5 41 agreement entered into under chapter 260E or 260F
5 42 between an employer and a community college is
5 43 sufficient as a financing statement if it contains the
5 44 information required by this section and is signed by
5 45 the employer. A carbon, photographic or other
5 46 reproduction of a security agreement or a financing
5 47 statement is sufficient as a financing statement if
5 48 the security agreement so provides or if the original
5 49 has been filed in this state. The secretary of state
5 50 must accept for filing a copy of a signature required
6 1 by this section. The secretary of state may adopt
6 2 rules for the electronic filing of a financing
6 3 statement.

6 4 Sec. _____. Section 554.9402, subsection 3, Code
6 5 1995, is amended to read as follows:

6 6 3. A form substantially as follows is sufficient
6 7 to comply with subsection 1:
6 8 Name of debtor (or assignor)
6 9 Address
6 10 Name of secured party (or assignee)
6 11 Address
6 12 (1) This financing statement covers the following
6 13 types (or items) of property:
6 14 (Describe)
6 15 (2) (If collateral is crops) The above described
6 16 crops are growing or are to be grown on:
6 17 (Describe Real Estate)
6 18 (3) (If collateral is swine fed in a confinement
6 19 feeding operation) The above described swine are fed
6 20 in a confinement feeding operation that has an animal
6 21 weight capacity of:

6 22 (State Animal Weight Capacity)
6 23

~~(3)~~

- (4) (If applicable) The above goods are to
6 24 become fixtures on
6 25 Where appropriate either add or substitute "The
6 26 above timber is standing on" or "The above
6 27 minerals or the like (including oil and gas) are
6 28 located on" or "The above accounts will be
6 29 financed at the wellhead or minehead of the well or
6 30 mine located on" or any or all of these
6 31 (Describe Real Estate)
6 32 and this financing statement is to be filed for record
6 33 in the real estate records. (If the debtor does not
6 34 have an interest of record) The name of a record owner
6 35 is
6 36

~~(4)~~

- (5) (If products of collateral are claimed)
6 37 Products of the collateral are also covered.
6 38 (use whichever is applicable)
6 39 Signature of Debtor (or Assignor)
6 40 Signature of Secured Party (or Assignee)"
6 41 #2. By renumbering as necessary.
6 42
6 43
6 44 _____
6 45 STEWART IVERSON, Jr.
6 46 EMIL J. HUSAK
6 47 SF 2037.214 76
6 48 da/jj