



CHESTER J. CULVER  
GOVERNOR

**OFFICE OF THE GOVERNOR**

PATTY JUDGE  
LT. GOVERNOR

May 15, 2008

The Honorable Michael Mauro  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

**House File 2688**, an Act providing for efforts to mitigate odor emitted from a livestock operation including by providing for basic and applied research and evaluations, providing for implementation, and including applicability and effective date provisions.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver  
Governor

CJC:bdj

cc: Secretary of the Senate  
Chief Clerk of the House





HOUSE FILE 2688

AN ACT

PROVIDING FOR EFFORTS TO MITIGATE ODOR EMITTED FROM A LIVESTOCK OPERATION INCLUDING BY PROVIDING FOR BASIC AND APPLIED RESEARCH AND EVALUATIONS, PROVIDING FOR IMPLEMENTATION, AND INCLUDING APPLICABILITY AND EFFECTIVE DATE PROVISIONS.

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

DIVISION V

ODOR MITIGATION FOR LIVESTOCK OPERATIONS

Section 1. NEW SECTION. 266.40 DEFINITIONS.

For purposes of this division, the following definitions apply:

1. "Livestock" means beef cattle, dairy cattle, swine, chickens, or turkeys.
2. "Livestock operation" means any area in which livestock are kept in a confined space, including a confinement feeding operation or open feedlot.
3. "Livestock producer" means the titleholder of livestock or a livestock operation.
4. "University" means Iowa state university of science and technology.

Sec. 2. NEW SECTION. 266.41 ESTABLISHMENT.

Iowa state university of science and technology shall consult with the department of agriculture and land stewardship and the department of natural resources to establish and administer livestock odor mitigation efforts to reduce the impacts of odor emitted from livestock operations involving swine, beef or dairy cattle, chickens, or turkeys as provided in this division.

Sec. 3. NEW SECTION. 266.42 PURPOSES.

The purposes of this division shall be to further livestock odor mitigation efforts as follows:

1. Further a livestock odor mitigation research effort in order to accelerate the adoption of affordable and effective odor mitigation technologies and strategies by livestock producers, expand the number of affordable and effective odor mitigation technologies and strategies available to livestock producers, and provide research-grounded information regarding odor mitigation technologies and strategies that are ineffective or cost-prohibitive.

2. Develop a livestock odor mitigation evaluation effort as provided in section 266.49, which shall be a multilevel process to determine the potential odor exposure to persons who would neighbor a new livestock operation as proposed to be constructed.

Sec. 4. NEW SECTION. 266.43 DEVELOP AND ADVANCE TECHNOLOGIES AND STRATEGIES -- APPLIED ON-SITE RESEARCH PROJECTS.

Iowa state university of science and technology shall conduct applied on-site research projects to address whether odor mitigation technologies or strategies can be successfully implemented across many livestock operations, locations, and situations, and to analyze the costs of their successful implementation and maintenance to accomplish the purposes provided in section 266.42.

1. The projects shall be conducted at livestock operations on a statewide basis and under different circumstances.

2. The university shall evaluate technologies or strategies that have a firm foundation in basic and applied research but which may further benefit from statewide on-site application. The technologies and strategies may include but are not limited to the following:

a. The installation, maintenance, and use of odor mitigating devices, techniques, or strategies.

b. The use of a livestock odor mitigation evaluation effort as provided in section 266.49.

c. The manipulation of livestock diet.

3. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in an applied



on-site research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

Sec. 5. NEW SECTION. 266.44 DEVELOP AND ADVANCE TECHNOLOGIES AND STRATEGIES -- BASIC AND APPLIED RESEARCH PROJECTS.

Iowa state university of science and technology shall conduct basic or applied research projects to develop or advance technologies or strategies to accomplish the purposes provided in section 266.42.

1. The university shall evaluate technologies or strategies that have not been subject to comprehensive scientific scrutiny but which demonstrate promise to accomplish the purposes provided in section 266.42. The technologies and strategies may include but are not limited to the following:

a. The adaption and use of modeling to locate livestock operations associated with keeping livestock in addition to swine, and to locate livestock operations utilizing odor mitigation devices, techniques, or strategies.

b. The installation, maintenance, and use of odor mitigating devices, techniques, or strategies.

c. The use of topical treatments applied to manure originating with livestock operations keeping chickens and turkeys.

2. Nothing in this section restricts the university from conducting its evaluation at livestock operations, including as provided in section 266.43. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in a basic or applied research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

Sec. 6. NEW SECTION. 266.45 EMERGING TECHNOLOGIES AND STRATEGIES -- BASIC RESEARCH PROJECTS.

Iowa state university of science and technology shall conduct basic research projects to investigate emerging technologies or strategies that may accomplish the purposes provided in section 266.42.

1. The university shall evaluate technologies or strategies that demonstrate promise for future development but which may require a long-term research commitment.

2. Nothing in this section restricts the university from conducting its evaluation at livestock operations, including as provided in section 266.43. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in a basic research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

Sec. 7. NEW SECTION. 266.46 INFORMATION REPORTING.

In accordance with section 266.42, Iowa state university of science and technology is the custodian of all information including but not limited to reports and records obtained, submitted, and maintained in connection with the research projects conducted on the site of a livestock operation as provided in this division, and all information submitted by or gathered from or deduced from a livestock producer or livestock operation pursuant to a livestock odor mitigation evaluation under section 266.49 or section 459.303, subsection 3. The public shall have a right to examine and copy the information as provided in chapter 22, subject to the exceptions of section 22.7. In addition, the university or an agent or employee of the university shall not release the name or location, or any other information sufficient to identify the name or location of any livestock producer or livestock operation participating in a research project or participating in a livestock odor mitigation evaluation pursuant to section 266.49 or section 459.303, subsection 3, and such information shall not be subject to release pursuant to subpoena or discovery in any civil proceeding, unless such confidentiality is waived in writing by the livestock producer. In addition, the university or an employee or agent of the university shall release no other information submitted by or gathered from or deduced from a livestock producer or livestock operation pursuant to a livestock odor mitigation evaluation under section 266.49 or section 459.303, subsection 3, unless such information is used in a research project, which in turn shall not occur without the written consent of the livestock producer. Any information provided by, gathered from, or deduced from a livestock producer or livestock operation in connection with a research project or odor mitigation evaluation that is in the possession of the livestock producer



or livestock operation shall not be subject to subpoena or discovery in any civil action against the producer.

Sec. 8. NEW SECTION. 266.47 RESEARCH RESULTS -- INTERIM AND FINAL REPORTS.

Iowa state university of science and technology shall prepare and submit reports as follows:

1. a. The university shall submit an interim report to the general assembly each year on or before January 15, through January 15, 2013. The interim report shall do all of the following:

(1) Describe the university's progress in achieving the purposes of section 266.42, and detail its efforts in carrying out the livestock odor mitigation efforts described in this division.

(2) Evaluate applied and basic research projects being conducted or completed and provide estimates for their completion.

(3) Make any recommendation for improving, continuing, or expanding livestock odor mitigation efforts and for disseminating the results of those efforts to livestock producers.

b. The university shall submit a final report to the general assembly on or before six months after the completion of its research projects as provided in section 266.41. The final report shall include a summary of efforts, the university's findings and conclusions, and recommendations necessary to carry out the purposes of section 266.42.

2. Nothing in this section prevents the university, or any individual researcher employed by or affiliated with the university, from compiling information obtained, submitted, and maintained as the result of a livestock odor mitigation effort as provided in section 266.42 involving a specific livestock operation, and publishing that information as part of the report so long as the information cannot be used to identify a livestock producer or livestock operation without the consent of the livestock producer as provided in section 266.46.

3. All information obtained by the university in connection with a research project shall be available for public examination and copying as provided in chapter 22, subject to the exceptions of section 22.7, so long as the

information cannot be used to identify the livestock producer or livestock operation as provided in section 266.46.

Sec. 9. NEW SECTION. 266.48 COST-SHARE PROGRAM FOR LIVESTOCK MITIGATION EFFORTS.

1. a. Iowa state university, in cooperation with the department of agriculture and land stewardship and the department of natural resources, shall establish a cost-share program for the livestock odor mitigation research efforts as established in sections 266.43 through 266.45 that maximizes participation in the livestock mitigation research efforts so as to accomplish the purposes in section 266.42, subsection 1.

b. The cost-share program shall allow for monetary contributions from livestock producers and other persons with an interest in livestock production. In addition, a livestock producer participating in a livestock odor mitigation research effort as provided in sections 266.43 through 266.45 shall provide in-kind contributions to participate in a research effort which may include but are not limited to furnishing the livestock producer's own labor, construction equipment, electricity and other utility costs, insurance, real property tax payments, and basic construction materials that may be reused or continued to be used by the livestock producer after the completion of the research effort.

2. This section does not apply to a livestock producer who is required to contribute one hundred percent of the total costs of conducting a research project.

Sec. 10. NEW SECTION. 266.49 LIVESTOCK ODOR MITIGATION EVALUATION EFFORT.

1. If funding is available, Iowa state university shall provide for a livestock odor mitigation evaluation effort as provided in section 266.42. The effort shall accomplish all the following objectives:

a. Ensure ease of its use and timeliness in producing results, including reports and the issuance of a livestock odor mitigation certificate as provided in this section.

b. Ensure a cost-effective process of evaluation.

c. Provide a level of evaluation that corresponds to the complexity of the proposed site of construction, including unique characteristics associated with that site.

2. The livestock odor mitigation evaluation effort shall provide for increasing levels of participation by a person who



requests the evaluation in cooperation with the university as follows:

a. A level one evaluation that provides an opportunity for the person to complete a simple questionnaire which may be accessed by using the internet without assistance by university personnel.

b. A level two evaluation that provides an opportunity for the person to consult with a specialist designated by the university who shall assist in performing a comprehensive evaluation of the site of the proposed construction.

c. A level three evaluation which provides an opportunity for the person to participate in a community-based odor assessment model that uses predictive computer modeling to analyze the potential odor intensity, duration, and frequency for a neighbor from a livestock operation.

3. An evaluation may account for all factors impacting upon odor exposure as determined relevant by the university. The factors may vary based upon the type of evaluation performed. Factors which may be considered include but are not limited to all of the following:

a. Characteristics relating to the proposed site including but not limited to terrain, weather patterns, surrounding vegetative barriers, the proximity of neighbors, and contributing odor sources.

b. The type and size of the structure proposed to be constructed and its relationship to existing livestock operation structures.

4. At the completion of an evaluation, the university shall provide the participating person with a report including its findings and recommendations. A report may vary based upon the type of evaluation performed. The report resulting from a level one or level two evaluation may recommend that the participating person conduct a higher level evaluation. A report resulting from a level two or level three evaluation may recommend modifications to the design or orientation of the livestock operation structure proposed to be constructed, the adoption of odor mitigating practices, or the installation of odor mitigating technologies.

5. A participating person who has completed the level of evaluation as recommended by the university may request that the university issue the participating person a livestock odor



mitigation evaluation certificate. The university shall issue a certificate to the participating person that verifies the person's completion of an evaluation that satisfies the requirements of this section. The university shall not issue a certificate to a participating person who has not completed the level of evaluation recommended by the university. The certificate shall identify the name of the participating person and the site where the construction is proposed. However, it shall not include any other information.

Sec. 11. Section 459.303, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A livestock odor mitigation evaluation certificate issued by Iowa state university as provided in section 266.49. The department shall not obtain, maintain, or consider the results of an evaluation. The applicant is not required to submit the certificate if any of the following applies:

(1) The confinement feeding operation is twice the minimum separation distance required from the nearest object or location from which a separation distance is required pursuant to section 459.202 on the date of the application, not including a public thoroughfare.

(2) The owner of each object or location which is less than twice the minimum separation distance required pursuant to section 459.202 from the confinement feeding operation on the date of the application, other than a public thoroughfare, executes a document consenting to the construction.

(3) The applicant submits a document swearing that Iowa state university has failed to furnish a certificate to the applicant within forty-five days after the applicant requested the university to conduct a livestock odor mitigation evaluation as provided in section 266.49.

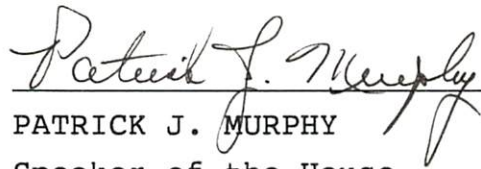
(4) The application is for a permit to expand a confinement feeding operation, if the confinement feeding operation was first constructed before the effective date of this section of this Act.

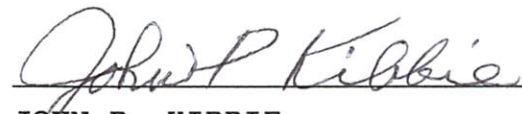
(5) Iowa state university does not provide for a livestock odor mitigation evaluation effort as provided in section 266.49, for any reason, including because funding is not available.

Sec. 12. APPLICABILITY. Section 459.303, subsection 3, as amended by this Act, shall not apply to require an applicant for a permit to construct a confinement feeding operation structure to submit a livestock odor mitigation evaluation certificate to the department of natural resources, if the application was submitted prior to the effective date of the section of this Act amending section 459.303, subsection 3.


Sec. 13. CONTINGENT IMPLEMENTATION. Subject to the effective date provisions of this Act, this Act shall be implemented by Iowa state university and the department of natural resources only when Iowa state university first receives moneys during a fiscal year as necessary to carry out all of the provisions of this Act.

Sec. 14. EFFECTIVE DATE. The section of this Act amending section 459.303, subsection 3, takes effect January 1, 2009.

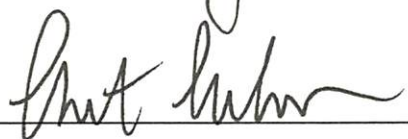
  
PATRICK J. MURPHY  
Speaker of the House

  
JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2688, Eighty-second General Assembly.

  
MARK BRANDSGARD  
Chief Clerk of the House

Approved May 15<sup>th</sup>, 2008

  
CHESTER J. CULVER  
Governor