

Do Pass 2/12 (p. 782)  
per H-3261

FILED FEB 16 1981

SENATE FILE 262

BY COMMITTEE ON NATURAL RESOURCES  
(FORMERLY SSB 206)

Passed Senate, Date 2-23-81 (p. 540) Passed House, Date 3-16-81 (p. 825)

Vote: Ayes 46 Nays 0 Vote: Ayes 94 Nays 1

Approved March 31, 1981

Repassed Senate as amended by  
House (3-3199) 3/18/81 (p. 864)  
48-0

# A BILL FOR

- 1 An Act to revise the regulation of land disturbing activities.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

## COMMUNICATION FROM THE SECRETARY OF STATE

April 21, 1981

Ms. Linda Mackay  
Secretary of the Senate  
State Capitol Building  
LOCAL

I hereby certify that Senate File 262 was published in The Fairfield Ledger, Inc.,  
Fairfield, Iowa, on April 10, 1981, and in the Oskaloosa Daily Herald, Oskaloosa,  
Iowa, on April 10, 1981.

Respectfully submitted,  
MARY JANE ODELL  
Secretary of State

1 Section 1. Section 467A.64, Code 1981, is amended to read  
2 as follows:

3 467A.64 EROSION CONTROL PLANS REQUIRED FOR CERTAIN  
4 PROJECTS.

5 1. When a land disturbing activity is to occur as a part  
6 of a project for which a permit ~~is~~ may be required by a  
7 political subdivision which has adopted a building code  
8 pursuant to chapter 103A or zoning ordinances pursuant to  
9 chapter 358A or 414, the required permit for the project  
10 causing the land disturbing activity shall ~~not be issued~~  
11 ~~unless there is on file with the permit issuing authority~~  
12 ~~a soil erosion control plan which covers the proposed project~~  
13 ~~and is approved by the soil conservation district commissioners~~  
14 contain an affidavit signed by the person seeking the permit  
15 stating that the proposed project will not exceed the soil  
16 loss limits.

17 2. In a political subdivision which has not adopted a  
18 building code under chapter 103A or zoning ordinances under  
19 chapter 358A or 414, a person engaged in a land disturbing  
20 activity shall file a signed affidavit with the soil  
21 conservation district that the project will not exceed the  
22 soil loss limits. The affidavit shall be in a form prescribed  
23 by the department and made available by the district.

24 3. For the purposes of this section, "land disturbing  
25 activity" means a land change such as the tilling, clearing,  
26 grading, excavating, transporting or filling of land which  
27 may result in soil erosion from water or wind and the movement  
28 of sediment and sediment related pollutants into the waters  
29 of the state or onto lands in the state but does not include  
30 the following:

31 a. Tilling, planting or harvesting of agricultural,  
32 horticultural or forest crops.

33 b. Preparation for single-family residences separately  
34 built unless in conjunction with multiple construction in  
35 subdivision development.

1 c. Minor activities such as home gardens, landscaping,  
2 repairs and maintenance work.

3 d. Surface or deep mining.

4 e. Installation of public utility lines and connections,  
5 fence posts, sign posts, telephone poles, electric poles and  
6 other kinds of posts or poles.

7 f. Septic tanks and drainage fields unless they are to  
8 serve a building whose construction is a land disturbing  
9 activity.

10 g. Construction and repair of the tracks, right of way,  
11 bridges, communication facilities and other related structures  
12 of a railroad.

13 h. Emergency work to protect life or property.

14 i. Disturbed land areas of less than ten thousand square  
15 feet unless a political subdivision by ordinance establishes  
16 a smaller exception or establishes conditions for this  
17 exception.

18 j. The construction, relocation, alteration or maintenance  
19 of public roads.

20 3 4. If the permit issuing authority determines that a  
21 land disturbing activity is not being conducted in compliance  
22 with the soil ~~erosion-control-plan~~ loss limits, the permit  
23 issuing authority shall file a written and signed complaint  
24 with the soil conservation district commissioners. The  
25 complaint shall have the same effect and validity as a  
26 complaint filed by an owner or occupant of land being damaged  
27 by sediment pursuant to section 467A.47. If the affidavit  
28 is filed with the district, the commissioners may proceed  
29 on their own complaint. The soil conservation district  
30 commissioners may issue an administrative order as provided  
31 in that section to the person conducting the land disturbing  
32 activity.

33 Sec. 2. This Act, being deemed of immediate importance,  
34 takes effect from and after its publication in The Fairfield  
35 Ledger, Inc., a newspaper published in Fairfield, Iowa, and

1 in the Oskaloosa Daily Herald, a newspaper published in Oskaloosa, Iowa.

3 EXPLANATION

4 This bill revises the statute which requires a soil erosion control plan approved by the soil district commissioners for a land disturbing activity in a political subdivision requiring a building or zoning authority. This provides that an affidavit be filed with the permit-issuing authority stating that the project will not exceed the soil loss limits instead of the filing of the soil erosion control plan. The bill also extends the requirement to political subdivisions without zoning or building permits. In these instances the affidavit is filed with the soil conservation district. The bill takes effect upon publication.

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HOUSE AMENDMENT TO SENATE FILE 262

-3199

1 Amend Senate File 262 as passed by the Senate as  
2 follows:

3 1. Page 1, by striking lines 1 through 23 and  
4 inserting in lieu thereof the following:

5 "Section 1. Section 467A.64, subsection 1, Code  
6 1981, is amended by striking the subsection and  
7 inserting in lieu thereof the following:

8 1. If a political subdivision has adopted a  
9 sediment control ordinance which the commissioners  
10 and the political subdivision jointly agree is at  
11 least as equally effective as the commissioners' rules  
12 in preventing erosion from exceeding the established  
13 soil loss limits, the commissioners and the political  
14 subdivision shall execute an agreement under chapter  
15 28E allowing an agency authorized by the political  
16 subdivision to receive and file an affidavit from  
17 a person, prior to initiating a land disturbing  
18 activity in that subdivision, stating that the proposed  
19 activity will not exceed the established soil loss  
20 limits. A copy of the affidavit shall be mailed to  
21 the district as a part of the terms of the agreement.  
22 The affidavit shall be in a form prescribed by the  
23 department and made available by the district.

24 2. Prior to initiating a land disturbing activity  
25 in a political subdivision which has not adopted  
26 sediment control ordinances as described in subsection  
27 1, a person engaged in the land disturbing activity  
28 shall file a signed affidavit with the soil  
29 conservation district that the project will not exceed  
30 the soil loss limits. The affidavit shall be in a  
31 form prescribed by the department and made available  
32 by the district.

33 Sec. 2. Section 467A.64, subsections 2 and 3,  
34 Code 1981, are amended to read as follows:"

35 2. Page 2, line 14, by striking the word "ten"  
36 and inserting in lieu thereof the words "ten twenty-  
37 five".

38 3. Page 2, line 19, by inserting after the word  
39 "roads" the words "by a public body".

40 4. Page 2, line 20, by striking the words "permit  
41 issuing authority" and inserting in lieu thereof the  
42 words "permit-issuing-authority agency authorized  
43 under subsection 1".

44 5. Page 2, lines 22 and 23, by striking the words  
45 "the permit issuing authority" and inserting in lieu  
46 thereof the words "the-permit-issuing-authority it".

47 6. Page 2, line 28, by inserting after the word  
48 "district" the words "or the political subdivision".

49 7. Page 2, by inserting after line 32 the  
50 following:

SENATE 3  
MARCH 18, 1981

S-3199  
Page 2

1 "Sec. 3. The soil conservation districts shall  
2 adopt rules to implement section 1 of this Act by  
3 October 1, 1981. The requirements of having an  
4 affidavit on file with the district provided in section  
5 1 of this Act shall not apply in a district until  
6 that district has adopted the rules implementing  
7 section 1 of this Act."

8 8. Renumber the sections to conform with this  
9 amendment.

S-3199 FILED  
March 17, 1981

RECEIVED FROM THE HOUSE

*Senate concurred 3/18/81 (p. 864)*

1 Amend Senate File 262 as passed by the Senate as  
2 follows:

3 1. Page 1, by striking lines 1 through 23 and  
4 inserting in lieu thereof the following:

5 "Section 1. Section 467A.64, subsection 1, Code  
6 1981, is amended by striking the subsection and  
7 inserting in lieu thereof the following:

8 1. If a political subdivision has adopted a  
9 sediment control ordinance which the commissioners  
10 find is at least equally effective as the  
11 commissioners' rules in preventing erosion from  
12 exceeding the established soil loss limits, the  
13 commissioners shall execute an agreement under chapter  
14 28E allowing an agency authorized by the political  
15 subdivision to receive and file an affidavit from  
16 a person, prior to initiating a land disturbing  
17 activity in that subdivision, stating that the proposed  
18 activity will not exceed the established soil loss  
19 limits. A copy of the affidavit shall be mailed to  
20 the district as a part of the terms of the agreement.  
21 The affidavit shall be in a form prescribed by the  
22 department and made available by the district.

23 2. Prior to initiating a land disturbing activity  
24 in a political subdivision which has not adopted  
25 sediment control ordinances as described in subsection  
26 1, a person engaged in the land disturbing activity  
27 shall file a signed affidavit with the soil  
28 conservation district that the project will not exceed  
29 the soil loss limits. The affidavit shall be in a  
30 form prescribed by the department and made available  
31 by the district.

32 Sec. 2. Section 467A.64, subsections 2 and 3,  
33 Code 1981, are amended to read as follows:"

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35 and inserting in lieu thereof the words "ten twenty-  
36 five".

37 3. Page 2, line 19, by inserting after the word  
38 "roads" the words "by a public body".

39 4. Page 2, line 20, by striking the words "permit  
40 issuing authority" and inserting in lieu thereof the  
41 words "permit-issuing-authority agency authorized  
42 under subsection 1".

43 5. Page 2, lines 22 and 23, by striking the words  
44 "the permit issuing authority" and inserting in lieu  
45 thereof the words "the-permit-issuing-authority it".

46 6. Page 2, by inserting after line 32 the  
47 following:

48 "Sec. 3. The soil conservation districts shall  
49 adopt rules to implement section 1 of this Act by  
50 October 1, 1981. The requirements of having an

PAGE 2

1 affidavit on file with the district provided in section  
2 1 of this Act shall not apply in a district until  
3 that district has adopted the rules implementing  
4 section 1 of this Act."

5 7. Renumber the sections to conform with this  
6 amendment.

H-3261 FILED

MARCH 11, 1981

*Adopted as amended by*  
3302 3/16 (p. 824)

BY COCHRAN of Webster

PELLETT of Cass

DIEMER of Black Hawk

CONNOLLY of Dubuque

SENATE FILE 262

H-3302

1 Amend amendment H-3261 to Senate File 262 as  
2 passed by the Senate as follows:

3 1. Page 1, by striking line 10, and inserting  
4 in lieu thereof the following: "and the political  
5 subdivision jointly agree is at least as equally  
6 effective as the".

7 2. Page 1, line 13, by inserting after the word  
8 "commissioners" the following: "and the political  
9 subdivision".

10 3. Page 1, by inserting after line 45, the  
11 following amendment:

12 "6. Page 2, line 28, by inserting after the  
13 word "district" the words "or the political subdivision".

BY JOHNSON of Linn  
BRANDT of Black Hawk  
DIEMER of Black Hawk  
COCHRAN of Webster  
PELLETT of Cass

H-3302 FILED  
MARCH 16, 1981  
ADOPTED (p. 824)

and the political subdivision shall execute an agreement under chapter 28E allowing an agency authorized by the political subdivision to receive and file an affidavit from a person, prior to initiating a land disturbing activity in that subdivision, stating that the proposed activity will not exceed the established soil loss limits. A copy of the affidavit shall be mailed to the district as a part of the terms of the agreement. The affidavit shall be in a form prescribed by the department and made available by the district.

2. Prior to initiating a land disturbing activity in a political subdivision which has not adopted sediment control ordinances as described in subsection 1, a person engaged in the land disturbing activity shall file a signed affidavit with the soil conservation district that the project will not exceed the soil loss limits. The affidavit shall be in a form prescribed by the department and made available by the district.

Sec. 2. Section 467A.64, subsections 2 and 3, Code 1981, are amended to read as follows:

2 3. For the purposes of this section, "land disturbing activity" means a land change such as the tilling, clearing, grading, excavating, transporting or filling of land which may result in soil erosion from water or wind and the movement of sediment and sediment related pollutants into the waters of the state or onto lands in the state but does not include the following:

- a. Tilling, planting or harvesting of agricultural, horticultural or forest crops.
- b. Preparation for single-family residences separately built unless in conjunction with multiple construction in subdivision development.
- c. Minor activities such as home gardens, landscaping, repairs and maintenance work.

SENATE FILE 262

AN ACT

TO REVISE THE REGULATION OF LAND DISTURBING ACTIVITIES.

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

Section 1. Section 467A.64, subsection 1, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

1. If a political subdivision has adopted a sediment control ordinance which the commissioners and the political subdivision jointly agree is at least as equally effective as the commissioners' rules in preventing erosion from exceeding the established soil loss limits, the commissioners

- d. Surface or deep mining.
  - e. Installation of public utility lines and connections, fence posts, sign posts, telephone poles, electric poles and other kinds of posts or poles.
  - f. Septic tanks and drainage fields unless they are to serve a building whose construction is a land disturbing activity.
  - g. Construction and repair of the tracks, right of way, bridges, communication facilities and other related structures of a railroad.
  - h. Emergency work to protect life or property.
  - i. Disturbed land areas of less than ~~ten~~ twenty-five thousand square feet unless a political subdivision by ordinance establishes a smaller exception or establishes conditions for this exception.
  - j. The construction, relocation, alteration or maintenance of public roads by a public body.
- 3 4. ~~If the permit-issuing-authority agency authorized under subsection 1 determines that a land disturbing activity is not being conducted in compliance with the soil erosion control-plan loss limits, the-permit-issuing-authority it shall file a written and signed complaint with the soil conservation district commissioners. The complaint shall have the same effect and validity as a complaint filed by an owner or occupant of land being damaged by sediment pursuant to section 467A.47. If the affidavit is filed with the district or the political subdivision, the commissioners may proceed on their own complaint.~~ The soil conservation district commissioners may issue an administrative order as provided in that section to the person conducting the land disturbing activity.

Sec. 3. The soil conservation districts shall adopt rules to implement section 1 of this Act by October 1, 1981. The requirements of having an affidavit on file with the district provided in section 1 of this Act shall not apply in a district

until that district has adopted the rules implementing section 1 of this Act.

Sec. 4. This Act, being deemed of immediate importance, takes effect from and after its publication in The Fairfield Ledger, Inc., a newspaper published in Fairfield, Iowa, and in the Oskaloosa Daily Herald, a newspaper published in Oskaloosa, Iowa.

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TERRY E. BRANSTAD  
President of the Senate

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DEIWYN STROMER  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 262, Sixty-ninth General Assembly.

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LINDA HOWARTH MACKAY  
Secretary of the Senate

Approved March 31, 1981

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ROBERT D. RAY  
Governor