

FILED FEB 23 1984

SENATE FILE 2214

BY COMMITTEE ON NATURAL RESOURCE
Approved 2/23 (p 524)
(FORMERLY SSB 2013)

Substituted for H.F. 2388 3/23

Passed Senate, Date 3-1-84 (p 598) Passed House, Date 4-18-84 (p 2164)

Vote: Ayes 48 Nays 0 Vote: Ayes 93 Nays 0

Approved April 30, 1984

Action to reconsider (615) 4/18 3/5 (p 653)

A BILL FOR

- 1 An Act relating to the regulation of hazardous waste and
- 2 subjecting violators to a civil penalty.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2214

H-6172

- 1 Amend Senate File 2214 as passed by the Senate
- 2 as follows:
- 3 1. Page 1, line 11, by inserting after the word
- 4 "notified" the words "prior to entry".

H-6172 FILED APRIL 6, 1984 BY MAULSBY of Calhoun
4/15 4/18 (p 2164)

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1 Section 1. Section 455B.103, subsection 8, unnumbered
2 paragraph 1, Code 1983, is amended to read as follows:

3 Conduct investigations of complaints received directly
4 or referred by the commission created in section 455B.104
5 or ~~such~~ other investigations deemed necessary. While
6 conducting an investigation, the executive director may enter
7 at any reasonable time in and upon any private or public
8 property, ~~except private dwellings,~~ to investigate any actual
9 or possible violation of ~~the provisions of~~ this chapter or
10 the rules or standards adopted under this chapter. However,
H-617211 the owner or person in charge shall be notified.

12 Sec. 2. Section 455B.411, subsection 2, paragraph a,
13 subparagraph (2), Code 1983, is amended to read as follows:

14 (2) Poses a substantial ~~danger~~ present or potential hazard
15 to human health or the environment when improperly treated,
16 stored, transported, or disposed of, or otherwise managed.

17 "Hazardous waste" may include but is not limited to wastes
18 that are toxic, corrosive or flammable or irritants, strong
19 sensitizers or explosives.

20 Sec. 3. Section 455B.412, subsection 3, Code 1983, is
21 amended to read as follows:

22 3. Adopt rules, applicable to generators or transporters
23 of or owners or operators of facilities for the treatment,
24 storage, or disposal of hazardous waste listed or identified
25 by the commission under subsection 2 of this section, as
26 necessary to protect human health and the environment. The
27 rules shall include establishment of a manifest system.

28 Sec. 4. Section 455B.413, subsection 1, Code 1983, is
29 amended to read as follows:

30 1. Issue, revoke, suspend, modify or deny permits for
31 persons owning or operating a facility for the treatment,
32 storage or disposal of a hazardous waste ~~listed~~ identified
33 by the commission under section 455B.412, subsection 2.
34 Permits shall be issued for ~~such~~ a period as the commission
35 may by rule prescribe.

1 Sec. 5. Section 455B.414, Code 1983, is amended to read
2 as follows:

3 455B.414 HAZARDOUS WASTE NOTIFICATION.

4 1. A person who on the effective date of a rule adopted
5 under section 455B.412, subsection 2 ~~listing~~ identifying a
6 hazardous waste as subject to sections 455B.411 to 455B.421
7 is generating or transporting the ~~listed~~ identified hazardous
8 waste or owns or is operating a treatment, storage or disposal
9 facility handling the ~~listed~~ identified hazardous waste shall
10 file with the executive director a notification stating the
11 waste handled by the person and the location and a general
12 description of the activity involving the waste. The notice
13 shall be given within ninety days after the effective date
14 of the rule ~~listing~~ identifying the waste.

15 2. Except as provided in subsection 1 ~~of this section~~,
16 a person shall not commence to transport or generate a
17 hazardous waste ~~listed~~ identified by rule under section
18 455B.412, subsection 2 without first notifying the executive
19 director of the proposed activity. The notice shall state
20 the waste to be handled, and the location and a general
21 description of the activity involving the ~~listed~~ identified
22 waste.

23 3. When the commission amends a rule adopted under section
24 455B.412, subsection 2, identifying additional characteristics
25 of hazardous waste or ~~listing~~ identifying an additional
26 substance as hazardous waste, the commission may require a
27 person to file the notification required by subsection 1 or
28 2 ~~of this section~~.

29 Sec. 6. Section 455B.415, subsections 1, 2, and 4, Code
30 Supplement 1983, is amended to read as follows:

31 1. Except as provided in subsections 2 and 4, a person
32 shall not construct or operate a facility for the treatment,
33 storage or disposal of a hazardous waste ~~listed~~ identified
34 under section 455B.412, subsection 2 unless the owner or
35 operator has obtained a permit for the facility from the

1 executive director.

2 2. The owner or operator of a facility for the treatment,
3 storage or disposal of a hazardous waste ~~listed~~ identified
4 under section 455B.412, subsection 2 existing on the effective
5 date of the rule listing the waste shall obtain a permit for
6 the facility within six months of the effective date of the
7 rule. A person owning or operating a facility for the
8 treatment, storage or disposal of a hazardous waste that
9 existed on the effective date of the rule ~~listing~~ identifying
10 the waste and that is required to have a permit under sections
11 455B.411 to 455B.421 is considered to have a permit until
12 ~~such-time-as~~ a final administrative determination is made
13 if the person meets the following conditions:

14 a. The person has given notice as required by section
15 455B.414.

16 b. The person has applied for a permit.

17 c. The executive director has determined that the failure
18 to issue the permit is not the result of the failure of the
19 applicant to furnish information reasonably required or
20 requested to process the application.

21 4. A permit is not required for the storage of a hazardous
22 waste ~~listed~~ identified under section 455B.412, subsection
23 2 when the only purpose of the storage is to accumulate for
24 a period of up to ninety days sufficient quantities of the
25 waste for transportation, treatment or disposal unless a
26 permit for the storage is required under federal law.

27 Sec. 7. Section 455B.417, subsection 1, paragraphs a and
28 b, Code 1983, is amended to read as follows:

29 a. Transport a hazardous waste ~~listed~~ identified under
30 the commission's rules to a hazardous waste storage, treatment
31 or disposal facility that is located in Iowa and that does
32 not have a permit under section 455B.415, subsection 1.

33 b. Treat, store, or dispose of a hazardous waste ~~listed~~
34 identified under sections 455B.411 to 455B.421 either without
35 having obtained a permit for the treatment, storage, or

1 disposal under section 455B.415, subsection 1, or in violation
2 of a material condition or requirement of a permit.

3 Sec. 8. Section 455B.417, subsections 3, 4, 5, and 6,
4 Code 1983, are amended by striking the subsections and
5 inserting in lieu thereof the following:

6 3. A person who violates a provision of this part or a
7 rule, permit, or order adopted or issued under this part is
8 subject to a civil penalty not to exceed ten thousand dollars
9 for each violation. Each day of violation constitutes a
10 separate violation.

11 Sec. 9. Section 455B.419, Code 1983, is amended to read
12 as follows:

13 455B.419 AGRICULTURAL CHEMICALS.

14 1. A person farmer using or disposing of federally approved
15 agricultural chemicals or the empty containers thereof shall
16 of agricultural chemicals is not be in violation of sections
17 455B.411 to 455B.421 by reason of such the use or disposal
18 provided that if the person farmer does both of the following:

19 ± a. Applies or disposes of the chemicals in accordance
20 with the manufacturer's instructions, ~~and~~.

21 2 b. Triple rinses each chemical container after it has
22 been emptied and uses the rinsing as makeup water in a tankmix
23 and applies the mix to the farmer's cropland at an application
24 rate that does not exceed the manufacturer's instructions.

25 2. As used in this section, farmer means an owner or
26 tenant of a farm unit, a member of the family of the owner
27 or tenant, or an employee of the owner or tenant. Farmer
28 does not include a commercial applicator of agricultural
29 chemicals.

30 EXPLANATION

31 This bill amends the authority of the department of water,
32 air and waste management over hazardous waste to conform with
33 the requirements of the federal Resource Conservation and
34 Recovery Act.

35 Section 1 removes a restriction which prevents the

1 department from investigating violations of the hazardous
2 waste authority in private dwellings.

3 Section 2 amends the definition of hazardous waste to
4 conform to the definition in the Resource Conservation and
5 Recovery Act.

6 Sections 3, 4, 5, 6, and 7 provide that a waste need not
7 be specifically listed by the commission before the waste
8 may be regulated.

9 Section 8 amends the civil penalty provisions of the
10 hazardous waste authority by replacing inconsistent penalty
11 provisions with a uniform civil penalty.

12 Finally, section 9 amends the exemption for disposal of
13 agricultural chemicals by limiting that exemption to farmers.

14 This bill takes effect July 1 following its enactment.

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SENATE FILE 2214

AN ACT

RELATING TO THE REGULATION OF HAZARDOUS WASTE AND SUBJECTING VIOLATORS TO A CIVIL PENALTY.

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

Section 1. Section 455B.103, subsection 8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Conduct investigations of complaints received directly or referred by the commission created in section 455B.104 or ~~such~~ other investigations deemed necessary. While conducting an investigation, the executive director may enter at any reasonable time in and upon any private or public property, ~~except private dwellings,~~ to investigate any actual or possible violation of ~~the provisions of~~ this chapter or the rules or standards adopted under this chapter. However, the owner or person in charge shall be notified.

Sec. 2. Section 455B.411, subsection 2, paragraph a, subparagraph (2), Code 1983, is amended to read as follows:

(2) Poses a substantial ~~danger~~ present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.

Sec. 3. Section 455B.412, subsection 3, Code 1983, is amended to read as follows:

3. Adopt rules, applicable to generators or transporters of or owners or operators of facilities for the treatment, storage, or disposal of hazardous waste listed or identified by the commission under subsection 2 of this section, as

necessary to protect human health and the environment. The rules shall include establishment of a manifest system.

Sec. 4. Section 455B.413, subsection 1, Code 1983, is amended to read as follows:

1. Issue, revoke, suspend, modify or deny permits for persons owning or operating a facility for the treatment, storage or disposal of a hazardous waste ~~listed~~ identified by the commission under section 455B.412, subsection 2. Permits shall be issued for ~~such~~ a period as the commission may by rule prescribe.

Sec. 5. Section 455B.414, Code 1983, is amended to read as follows:

455B.414 HAZARDOUS WASTE NOTIFICATION.

1. A person who on the effective date of a rule adopted under section 455B.412, subsection 2 ~~listing~~ identifying a hazardous waste as subject to sections 455B.411 to 455B.421 is generating or transporting the ~~listed~~ identified hazardous waste or owns or is operating a treatment, storage or disposal facility handling the ~~listed~~ identified hazardous waste shall file with the executive director a notification stating the waste handled by the person and the location and a general description of the activity involving the waste. The notice shall be given within ninety days after the effective date of the rule ~~listing~~ identifying the waste.

2. Except as provided in subsection 1 ~~of this section,~~ a person shall not commence to transport or generate a hazardous waste ~~listed~~ identified by rule under section 455B.412, subsection 2 without first notifying the executive director of the proposed activity. The notice shall state the waste to be handled, and the location and a general description of the activity involving the ~~listed~~ identified waste.

3. When the commission amends a rule adopted under section 455B.412, subsection 2, identifying additional characteristics of hazardous waste or ~~listing~~ identifying an additional

substance as hazardous waste, the commission may require a person to file the notification required by subsection 1 or 2 ~~of this section~~.

Sec. 6. Section 455B.415, subsections 1, 2, and 4, Code Supplement 1983, is amended to read as follows:

1. Except as provided in subsections 2 and 4, a person shall not construct or operate a facility for the treatment, storage or disposal of a hazardous waste ~~listed~~ identified under section 455B.412, subsection 2 unless the owner or operator has obtained a permit for the facility from the executive director.

2. The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste ~~listed~~ identified under section 455B.412, subsection 2 existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule ~~listing~~ identifying the waste and that is required to have a permit under sections 455B.411 to 455B.421 is considered to have a permit until ~~such time as~~ a final administrative determination is made if the person meets the following conditions:

- a. The person has given notice as required by section 455B.414.
- b. The person has applied for a permit.
- c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

4. A permit is not required for the storage of a hazardous waste ~~listed~~ identified under section 455B.412, subsection 2 when the only purpose of the storage is to accumulate for a period of up to ninety days sufficient quantities of the waste for transportation, treatment or disposal unless a permit for the storage is required under federal law.

Sec. 7. Section 455B.417, subsection 1, paragraphs a and b, Code 1983, is amended to read as follows:

a. Transport a hazardous waste ~~listed~~ identified under the commission's rules to a hazardous waste storage, treatment or disposal facility that is located in Iowa and that does not have a permit under section 455B.415, subsection 1.

b. Treat, store, or dispose of a hazardous waste ~~listed~~ identified under sections 455B.411 to 455B.421 either without having obtained a permit for the treatment, storage, or disposal under section 455B.415, subsection 1, or in violation of a material condition or requirement of a permit.

Sec. 8. Section 455B.417, subsections 3, 4, 5, and 6, Code 1983, are amended by striking the subsections and inserting in lieu thereof the following:

3. A person who violates a provision of this part or a rule, permit, or order adopted or issued under this part is subject to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation constitutes a separate violation.

Sec. 9. Section 455B.419, Code 1983, is amended to read as follows:

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1. A ~~person~~ farmer using or disposing of federally approved agricultural chemicals or the empty containers ~~thereof shall~~ of agricultural chemicals is not be in violation of sections 455B.411 to 455B.421 by reason of ~~such~~ the use or disposal ~~provided that if the person farmer does both of the following:~~

1 a. Applies or disposes of the chemicals in accordance with the manufacturer's instructions, ~~and.~~

2 b. Triple rinses each chemical container after it has been emptied and uses the rinsing as makeup water in a tankmix and applies the mix to the farmer's cropland at an application rate that does not exceed the manufacturer's instructions.

2. As used in this section, farmer means an owner or tenant of a farm unit, a member of the family of the owner

or tenant, or an employee of the owner or tenant. Farmer does not include a commercial applicator of agricultural chemicals.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2214, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 30, 1984

TERRY E. BRANSTAD
Governor