

FEB 6 1996
Agriculture

HOUSE FILE 2145
BY KOENIGS, SHOULTZ, MURPHY,
OLLIE, DREES, TAYLOR,
COHOON, NELSON of
Pottawattamie, WARNSTADT,
OSTERHAUS, MUNDIE, BURNETT,
BRAND, CATALDO, MASCHER,
LARKIN, JOCHUM, BELL,
HARPER, HOLVECK, McCOY,
KREIMAN, WEIGEL, MYERS,
FALLON, SCHRADER, MORELAND,
DODERER, BERNAU, CONNORS,
BAKER, BRAMMER, and WITT

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations, making an
2 appropriation, and including an applicability provision.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2145

1 Section 1. Section 335.2, Code 1995, is amended to read as
2 follows:

3 335.2 FARMS AGRICULTURAL PURPOSES EXEMPT.

4 Except ~~to the extent required to implement section 335.27,~~
5 no as provided in this section, an ordinance adopted under
6 this chapter applies shall not apply to an agricultural
7 operation, including land, farm houses, farm barns, farm
8 outbuildings, or other buildings or structures, which are
9 primarily adapted, by reason of nature and area, for use-for
10 an agricultural purposes purpose, while so used. However, the
11 ordinances an ordinance adopted under this chapter may apply
12 to any of the following:

13 1. The implementation of an agricultural preservation
14 ordinance, as provided in section 335.27.

15 2. A structure, building, dam, obstruction, deposit, or
16 excavation in or on the flood plains of any a river or stream.

17 3. An animal feeding operation, as defined in section
18 455B.161, other than an animal feeding operation which is part
19 of a family farm. The county board of supervisors shall
20 determine if an agricultural operation qualifies as a family
21 farm. In making this determination the board shall review
22 facts relating to the agricultural operation and the person
23 owning or leasing the land where the agricultural operation is
24 located, including the extent to which the person:

25 a. Has held an interest in the land.

26 b. Is actively engaged in farming the land.

27 c. Produces different species of livestock on the land.

28 d. Produces crops on the land. If crops are produced on
29 the land, the board shall consider the extent to which the
30 crops are used to feed livestock produced on the land.

31 e. Owns and operates machinery for the following:

32 (1) The planting and harvesting of grain on the land.

33 (2) The application of manure on the land.

34 f. Owns and uses facilities for the storage of grain
35 produced on the land.

1 Sec. 2. Section 455B.162, subsection 1, paragraph b,
2 unnumbered paragraph 1, Code Supplement 1995, is amended to
3 read as follows:

4 The following table represents the minimum separation
5 distance in feet required between animal feeding operation
6 structures and a public use area or ~~a residence not owned by~~
7 ~~the owner of the animal feeding operation, a commercial~~
8 ~~enterprise, a bona fide religious institution, or an~~
9 ~~educational institution located within~~ the corporate limits of
10 a city:

11 Sec. 3. Section 657.1, Code Supplement 1995, is amended to
12 read as follows:

13 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO ABATE.

14 Whatever is injurious to health, indecent, or ~~unreasonably~~
15 offensive to the senses, or an obstruction to the free use of
16 property, so as essentially to ~~unreasonably~~ interfere with the
17 comfortable enjoyment of life or property, is a nuisance, and
18 a civil action by ordinary proceedings may be brought to
19 enjoin and abate the same and to recover damages sustained on
20 account thereof.

21 Sec. 4. Section 657.2, subsection 1, Code Supplement 1995,
22 is amended to read as follows:

23 1. The erecting, continuing, or using any building or
24 other place for the exercise of any trade, employment, or
25 manufacture, which, by occasioning noxious exhalations,
26 ~~unreasonably~~ offensive smells, or other annoyances, becomes
27 injurious and dangerous to the health, comfort, or property of
28 individuals or the public.

29 Sec. 5. DEPARTMENT OF NATURAL RESOURCES. There is
30 appropriated from the general fund of the state to the
31 department of natural resources for the fiscal year beginning
32 July 1, 1996, and ending June 30, 1997, the following amount,
33 or so much thereof as is necessary, to be used for the
34 purposes designated:

35 For the regulation of animal feeding operations and the

1 enforcement of statutes and rules applicable to animal feeding
2 operations, as provided in chapter 455B, including salaries,
3 support, maintenance, miscellaneous purposes, and for not more
4 than the following full-time equivalent positions:

5	\$	382,000
6	FTEs	7

7 Sec. 6. APPLICABILITY. Except as provided in section
8 455B.163, as enacted by 1995 Iowa Acts, chapter 195, section
9 17, with regard to the continued operation of animal feeding
10 operations constructed prior to May 31, 1995, or the expansion
11 of structures constructed prior to May 31, 1995, the
12 provisions of section 455B.162, subsection 1, paragraph "b",
13 unnumbered paragraph 1, Code Supplement 1995, as enacted by
14 1995 Iowa Acts, chapter 195, section 16, shall continue to
15 apply to animal feeding operation structures constructed on or
16 after May 31, 1995, but prior to the effective date of this
17 Act, and to the expansion of such structures constructed on or
18 after May 31, 1995, but prior to the effective date of this
19 Act.

20 Sec. 7. REPEAL OF NUISANCE SUIT RESTRICTION. Section
21 657.11, Code Supplement 1995, is repealed.

22 EXPLANATION

23 This bill relates to animal feeding operations, including
24 by amending provisions enacted last year in 1995 Iowa Acts,
25 chapter 195 (House File 519).

26 The bill amends chapter 335, which provides for county
27 zoning. Section 335.2 currently provides that county zoning
28 does not apply to land used for an agricultural purpose. The
29 bill amends section 335.2 to provide that the exemption does
30 not apply to an animal feeding operation or an animal feeding
31 operation structure, unless the animal feeding operation is
32 located on a family farm. An animal feeding operation
33 structure is an anaerobic lagoon, a formed manure storage
34 structure, egg washwater storage structure, earthen manure
35 storage basin, or confinement building. The bill provides

1 that the county board of supervisors must determine whether an
2 operation qualifies as a family farm. The bill provides that
3 the board must consider factors relating to the agricultural
4 operation and the person owning or leasing the land where the
5 agricultural operation is located, including the extent to
6 which the person holding an interest in the land has held the
7 interest, is actively engaged in farming the land, produces
8 different species of livestock, produces crops on the land,
9 feeds livestock from those crops, owns and operates farm
10 machinery, and owns and uses grain storage facilities.

11 The bill amends section 455B.162, which provides separation
12 distances between animal feeding operations and residences,
13 businesses, churches, and schools located within the corporate
14 limits of a city. The bill provides that the separation
15 distances apply between an animal feeding operation and the
16 corporate limits of a city. The new separation distance
17 requirement does not apply to an animal feeding operation
18 structure constructed or expanded prior to the effective date
19 of this bill.

20 Chapter 657 provides for nuisances. House File 519
21 provides that a nuisance must be unreasonably offensive and
22 creates a rebuttable presumption that an animal feeding
23 operation is not a public or private nuisance, if the animal
24 feeding operation is not in violation of law and has obtained
25 all required permits. This bill eliminates those provisions.

26 The bill appropriates moneys from the general fund and
27 allocates full-time equivalent positions to the department of
28 natural resources for the 1996-1997 fiscal year for the
29 regulation of animal feeding operations and the enforcement of
30 statutes and rules applicable to animal feeding operations.

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