

FEB 14 1996

Agriculture

HOUSE FILE 2203
BY SUKUP, TEIG, ARNOLD,
BRANSTAD, and COON

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

A BILL FOR

1 An Act relating to county enforcement of state law against
2 confinement feeding operations.

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

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HF 2203

1 Section 1. NEW SECTION. 331.302A CONFINEMENT FEEDING
2 OPERATIONS.

3 1. If a confinement feeding operation, including a related
4 animal feeding operation structure, as provided in chapter
5 455B, is located in a county, that county board of supervisors
6 may enforce the provisions in chapter 455B applicable to
7 confinement feeding operations, including rules adopted by the
8 department of natural resources as provided in section
9 455B.173 against the owner of the confinement feeding
10 operation.

11 2. In order to proceed in an enforcement action, the board
12 must deliver a notice to the department, stating that a
13 confinement feeding operation may be in violation of chapter
14 455B or departmental rules. The board shall deliver the
15 notice after approval of the board action by resolution. The
16 notice shall be in writing and shall state the location of the
17 confinement feeding operation, the name and address of the
18 owner, and an explanation of the possible violation. The
19 board may inform the department that the board reserves its
20 right to enforce chapter 455B and related rules as provided in
21 this section, if the department fails to initiate an
22 enforcement action or continue an enforcement action which
23 results in an administrative hearing or a settlement of the
24 case. The county may begin enforcement proceedings after
25 fourteen calendar days following delivery of the notice,
26 unless the county receives notice by the department that the
27 department has initiated an enforcement action in the case as
28 provided in this subsection. The department shall proceed in
29 the active enforcement of the case.

30 3. Once a county begins an enforcement action as provided
31 in this section, it shall be the party in interest in the case
32 and shall have sole authority and responsibility to carry out
33 the action. The county may refer any case to the attorney
34 general. The department of natural resources may assume
35 prosecution of the enforcement action from the county.

1 However, if the department assumes prosecution of the
2 enforcement action, the department shall be required to
3 resolve the action.

4 4. The county shall bring the enforcement action according
5 to the same procedures used for a county infraction as
6 provided in section 331.307. However, the civil penalty may
7 be for any amount that could be assessed by the department for
8 the same violation. The department shall reimburse the county
9 for fifty percent of the costs incurred by the county in
10 enforcing the action.

11 Sec. 2. Section 455B.172, Code 1995, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 9. A county board of supervisors in the
14 county where a confinement feeding operation is located may
15 enforce the provisions of this chapter including rules adopted
16 by the department pursuant to section 455B.173, against the
17 confinement feeding operation, as provided in section
18 331.302A.

19 EXPLANATION

20 This bill provides that if a confinement feeding operation
21 is located in a county, that county board of supervisors may
22 enforce the provisions of chapter 455B applicable to
23 confinement feeding operations and related departmental rules.
24 The bill provides that in order to proceed, the board must
25 deliver a notice to the department, stating that the
26 confinement feeding operation may be in violation of state
27 law. The board may inform the department that the board
28 reserves its right to enforce the law and rules. The county
29 may begin enforcement proceedings after 14 calendar days
30 following delivery of the notice, unless the department
31 commences and maintains active enforcement of the case. The
32 county must bring the enforcement action according to the same
33 procedures used for a county infraction. However, a civil
34 penalty imposed upon a violator may be up to the amount
35 assessable by the department which, according to section

1 455B.191, cannot exceed \$5,000.

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