

FEB 27 1997

Agriculture

HOUSE FILE

374

BY DREES and SCHRADER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to animal feeding operations and including an  
2 applicability provision.

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

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HF 374

1 Section 1. Section 335.2, Code 1997, 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 land 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 1997, is amended to read as  
3 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 1997, is amended to read as  
12 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 1997, is amended  
22 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. APPLICABILITY. Except as provided in section  
30 455B.163, Code 1997, with regard to the continued operation of  
31 animal feeding operations constructed prior to May 31, 1995,  
32 or the expansion of structures constructed prior to May 31,  
33 1995, the provisions of section 455B.162, subsection 1,  
34 paragraph "b", unnumbered paragraph 1, Code 1997, shall  
35 continue to apply to animal feeding operation structures

1 constructed on or after May 31, 1995, but prior to the  
2 effective date of this Act, and to the expansion of such  
3 structures constructed on or after May 31, 1995, but prior to  
4 the effective date of this Act.

5 Sec. 6. Section 657.11, Code 1997, is repealed.

6 EXPLANATION

7 This bill relates to animal feeding operations.

8 The bill amends Code chapter 335, which provides for county  
9 zoning. Code section 335.2 currently provides that county  
10 zoning does not apply to land used for an agricultural  
11 purpose. The bill amends Code section 335.2 to provide that  
12 the exemption does not apply to an animal feeding operation or  
13 an animal feeding operation structure, unless the animal  
14 feeding operation is located on a family farm. An animal  
15 feeding operation structure is an anaerobic lagoon, a formed  
16 manure storage structure, egg washwater storage structure,  
17 earthen manure storage basin, or confinement building. The  
18 bill provides that the county board of supervisors must  
19 determine whether an operation qualifies as a family farm.  
20 The bill provides that the board must consider factors  
21 relating to the agricultural operation and the person owning  
22 or leasing the land where the agricultural operation is  
23 located, including the extent to which the person holding an  
24 interest in the land has held the interest, is actively  
25 engaged in farming the land, produces different species of  
26 livestock, produces crops on the land, feeds livestock from  
27 those crops, owns and operates farm machinery, and owns and  
28 uses grain storage facilities.

29 The bill amends Code section 455B.162, which provides  
30 separation distances between animal feeding operations and  
31 residences, businesses, churches, and schools located within  
32 the corporate limits of a city. The bill provides that the  
33 separation distances apply between an animal feeding operation  
34 and the corporate limits of a city. The new separation  
35 distance requirement does not apply to an animal feeding

1 operation structure constructed or expanded prior to the  
2 effective date of this bill.

3 Code section 657.11 provides that a nuisance must be  
4 unreasonably offensive and creates a rebuttable presumption  
5 that an animal feeding operation is not a public or private  
6 nuisance, if the animal feeding operation is not in violation  
7 of law and has obtained all required permits. This bill  
8 eliminates those provisions.

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