

MAR 10 1997  
Agriculture

HOUSE FILE 508  
BY SUKUP and GRUNDBERG

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to animal feeding operations, by providing  
2 authority to counties to regulate anaerobic lagoons, earthen  
3 manure storage basins, and the use of spray irrigation  
4 equipment, and providing penalties.

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

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HF 508

1 Section 1. Section 335.2, Code 1997, is amended to read as  
2 follows:

3 335.2 FARMS EXEMPT.

4 ~~1. Except to the extent required to implement section~~  
5 ~~335.27, no~~ as provided in subsection 2, an ordinance adopted  
6 under this chapter applies shall not apply to land, farm  
7 including houses, farm barns, farm outbuildings, or other  
8 buildings or structures located on land which are is primarily  
9 adapted, by reason of nature and area, for ~~use-for~~  
10 agricultural purposes, while so used. ~~However, the ordinances~~  
11 ~~may apply to any~~

12 2. Subsection 1 shall not apply to any of the following:

13 a. The construction or expansion of an anaerobic lagoon or  
14 earthen manure storage basin used in connection with an animal  
15 feeding operation regulated by the department of natural  
16 resources as provided in chapter 455B.

17 b. An ordinance required to implement an agricultural  
18 preservation ordinance, as provided in section 335.27.

19 c. A structure, building, dam, obstruction, deposit or  
20 excavation in or on the flood plains of any river or stream.

21 Sec. 2. Section 455B.112, Code 1997, is amended to read as  
22 follows:

23 455B.112 ACTIONS BY ATTORNEY GENERAL.

24 In addition to the duty to commence legal proceedings at  
25 the request of the director or commission under this chapter,  
26 the attorney general may institute civil or criminal  
27 proceedings, including an action for injunction, to enforce  
28 the provisions of this chapter including orders or permits  
29 issued or rules adopted under this chapter or to enforce the  
30 requirements of an ordinance adopted in a county pursuant to  
31 section 455B.167 or 455B.205.

32 Sec. 3. NEW SECTION. 455B.167 AUTHORITY OF COUNTIES.

33 1. A county may adopt an ordinance providing requirements  
34 for the construction or expansion of an anaerobic lagoon or  
35 earthen manure storage basin which are more stringent than

1 required in this part or rules adopted by the department  
2 pursuant to this part, including but not limited to providing  
3 separation distance requirements greater than provided  
4 pursuant to section 455B.161, requiring a separation distance  
5 between an anaerobic lagoon or earthen manure storage basin  
6 and the limits of a city, providing for more stringent  
7 requirements for the expansion of an anaerobic lagoon or  
8 earthen manure storage basin than provided in section  
9 455B.162, and not applying an exemption provided pursuant to  
10 section 455B.165.

11 2. A person who violates a requirement adopted by a county  
12 pursuant to this section shall be subject to a civil penalty  
13 not to exceed five thousand dollars for each day of such  
14 violation, unless the violation is also a violation of state  
15 law. The violator shall be subject to prosecution by the  
16 county attorney in the county where the violation occurs. The  
17 person in violation may be restrained by an injunction in an  
18 action brought by the county attorney. The county board of  
19 supervisors may refer the case for prosecution to the attorney  
20 general who may initiate and carry out the prosecution in  
21 cooperation with the county attorney.

22 Sec. 4. Section 455B.171, Code 1997, is amended by adding  
23 the following new subsections:

24 NEW SUBSECTION. 1A. "Anaerobic lagoon" means the same as  
25 defined in section 455B.161.

26 NEW SUBSECTION. 2A. "Animal feeding operation structure"  
27 means the same as defined in section 455B.161.

28 NEW SUBSECTION. 7A. "Earthen manure storage basin" means  
29 the same as defined in section 455B.161.

30 NEW SUBSECTION. 29A. "Spray irrigation equipment" means  
31 mechanical equipment commonly used for the artificial  
32 application of water to growing crops if the equipment is  
33 connected by hoses or pipes to an animal feeding operation  
34 structure containing manure and the equipment is used for the  
35 aerial application of manure to growing crops.



1 animal feeding operations.

2 This bill provides that a county may adopt an ordinance  
3 providing construction or expansion requirements for anaerobic  
4 lagoons and earthen manure storage basins, requirements for  
5 the storage of manure from these structures, and the disposal  
6 of manure by spray irrigation equipment that are more  
7 stringent than provided in Code chapter 455B or rules adopted  
8 by the department of natural resources under the chapter. The  
9 bill provides that a person who violates a requirement is  
10 subject to a civil penalty not to exceed \$5,000 for each day  
11 that an air quality violation occurs and \$10,000 for each day  
12 that a water quality violation occurs, unless the violation is  
13 also a violation of state law. The bill authorizes the county  
14 attorney to initiate prosecution of the case or to obtain an  
15 injunction against the violator. The county board of  
16 supervisors may also refer the case for prosecution to the  
17 attorney general.

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