

FILED JAN 22 1998

SENATE FILE 2055
BY RITTMER

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

A BILL FOR

1 An Act relating to nuisance suit actions against animal feeding
2 operations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 2055

1 Section 1. Section 657.11, subsection 3, Code 1997, is
2 amended to read as follows:

3 3. The rebuttable presumption may be overcome by clear and
4 convincing evidence ~~of both of the following:~~

5 ~~that the~~ that the animal feeding operation unreasonably and
6 continuously interferes with another person's comfortable use
7 and enjoyment of the person's life or property; and that
8 either of the following applies:

9 a. The animal feeding operation failed to minimize the
10 source of the interference by using technology and practices
11 that a prudent person would consider reasonable based on the
12 size of the operation.

13 b. The injury or damage is proximately caused by the
14 negligent operation of the animal feeding operation.

15 EXPLANATION

16 This bill amends Code section 657.11 which provides that in
17 a legal action asserting a nuisance against an animal feeding
18 operation, there is a rebuttable presumption that the animal
19 feeding operation which complies with state and federal
20 regulations is not a public or private nuisance. The Code
21 section provides that the rebuttable presumption must be
22 overcome by clear and convincing evidence of two facts: (1)
23 that the operation unreasonably and continuously interferes
24 with the comfortable use and enjoyment of life or property,
25 and (2) the injury or damage is proximately caused by the
26 negligent operation of the animal feeding operation.

27 This bill provides that a plaintiff must overcome the
28 presumption by clear and convincing evidence that the animal
29 feeding operation unreasonably and continuously interferes
30 with another person's comfortable use and enjoyment of the
31 person's life or property and either (1) the operation failed
32 to minimize the source of the interference by using technology
33 and practices that a prudent person would consider reasonable
34 based on the size of the operation, or (2) the injury or
35 damage is proximately caused by the negligent operation of the

- 1 animal feeding operation.
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