

AGRICULTURE

SENATE FILE 2087
BY KIBBIE

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

A BILL FOR

1 An Act regulating certain animal feeding operation structures and
2 providing an effective date.

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

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S.F. 2087

1 Section 1. Section 455B.161, Code 1997, is amended by
2 adding the following new subsections:

3 NEW SUBSECTION. 5A. "Authorized animal feeding operation
4 structure" means an animal feeding operation structure other
5 than an unformed manure storage structure.

6 NEW SUBSECTION. 21. "Unformed manure storage structure"
7 means a covered or uncovered animal feeding operation
8 structure, other than a formed manure storage structure, which
9 is used to store manure from a confinement feeding operation,
10 including but not limited to an earthen manure storage basin
11 or anaerobic lagoon.

12 Sec. 2. Section 455B.162, unnumbered paragraph 1, Code
13 1997, is amended by striking the unnumbered paragraph.

14 Sec. 3. Section 455B.162, subsection 1, unnumbered
15 paragraph 1, Code 1997, is amended by striking the unnumbered
16 paragraph and inserting in lieu thereof the following:

17 The following tables shall apply to animal feeding
18 operation structures constructed or expanded on or after May
19 31, 1995, but prior to the effective date of this Act:

20 Sec. 4. Section 455B.162, Code 1997, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 1A. The following tables shall apply to
23 authorized animal feeding operation structures constructed or
24 expanded on or after the effective date of this Act:

25 a. The following table represents the minimum separation
26 distance in feet required between an authorized animal feeding
27 operation structure and a residence not owned by the owner of
28 the animal feeding operation, or a commercial enterprise, bona
29 fide religious institution, or an educational institution:

30	Minimum
31	separation
32	distance in
33	feet for
34	operations
35	Minimum having an

1 separation animal Minimum
 2 distance in weight separation
 3 feet for capacity of distance in
 4 operations 625,000 or feet for
 5 having an more pounds operations
 6 animal but less than having an
 7 weight 1,250,000 animal
 8 capacity of pounds for weight
 9 less than animals other capacity of
 10 625,000 than bovine, 1,250,000 or
 11 pounds for or 1,600,000 more pounds
 12 animals other or more for animals
 13 than bovine, pounds but other than
 14 or less than less than bovine, or
 15 1,600,000 4,000,000 4,000,000 or
 16 pounds for pounds for more pounds
 17 Type of structure bovine bovine for bovine

18 Uncovered formed			
19 manure storage			
20 structure	1,000	1,500	2,000
21 Covered formed			
22 manure storage			
23 structure	750	1,000	1,500
24 Confinement			
25 building	750	1,000	1,500
26 Egg washwater			
27 storage structure	750	1,000	1,500

28 b. The following table represents the minimum separation
 29 distance in feet required between an authorized animal feeding
 30 operation structure and a public use area or a residence not
 31 owned by the owner of the animal feeding operation, a
 32 commercial enterprise, a bona fide religious institution, or
 33 an educational institution located within the corporate limits
 34 of a city:

35 Minimum

1		separation	
2		distance in	
3		feet for	
4		operations	
5	Minimum	having an	
6	separation	animal	Minimum
7	distance in	weight	separation
8	feet for	capacity of	distance in
9	operations	625,000 or	feet for
10	having an	more pounds	operations
11	animal	but less than	having an
12	weight	1,250,000	animal
13	capacity of	pounds for	weight
14	less than	animals other	capacity of
15	625,000	than bovine,	1,250,000 or
16	pounds for	or 1,600,000	more pounds
17	animals other	or more	for animals
18	than bovine,	pounds but	other than
19	or less than	less than	bovine, or
20	1,600,000	4,000,000	4,000,000 or
21	pounds for	pounds for	more pounds
22	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>

23 Authorized animal
 24 feeding operation
 25 structure 1,250 1,875 2,500

26 NEW SUBSECTION. 3. An animal feeding operation structure
 27 constructed prior to May 31, 1995, may be expanded only if it
 28 is an authorized animal feeding operation structure as
 29 provided in section 455B.163.

30 Sec. 5. Section 455B.163, unnumbered paragraph 1, Code
 31 1997, is amended to read as follows:

32 An authorized animal feeding operation constructed prior to
 33 the applicability of a requirement in section 455B.162, which
 34 does not comply with the distance-requirements-of-section
 35 455B.162-on-May-31, 1995 applicable requirement, may continue

1 to operate regardless of ~~those-separation-distances~~ the
2 requirement. The animal feeding operation may be expanded on
3 ~~or-after-May-31, 1995~~, regardless of ~~those-separation~~
4 ~~distances~~ the applicable requirement at any time, if either of
5 the following applies:

6 Sec. 6. Section 455B.163, subsection 1, Code 1997, is
7 amended to read as follows:

8 1. The authorized animal feeding operation structure as
9 constructed or expanded complies with the applicable distance
10 requirements of section 455B.162.

11 Sec. 7. Section 455B.171, Code Supplement 1997, is amended
12 by adding the following new subsections:

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

15 NEW SUBSECTION. 3A. "Authorized animal feeding operation
16 structure" means an animal feeding operation structure other
17 than an unformed manure storage structure.

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

20 NEW SUBSECTION. 9A. "Formed manure storage structure"
21 means the same as defined in section 455B.161.

22 NEW SUBSECTION. 32A. "Unformed manure storage structure"
23 means a covered or uncovered animal feeding operation
24 structure, other than a formed manure storage structure, which
25 is used to store manure from a confinement feeding operation,
26 including but not limited to an earthen manure storage basin
27 or anaerobic lagoon.

28 Sec. 8. Section 455B.173, subsection 13, Code 1997, is
29 amended to read as follows:

30 13. a. Adopt, modify, or repeal rules relating to the
31 construction or operation of animal feeding operations. The
32 rules shall include, but are not limited to, minimum manure
33 control requirements, requirements for obtaining permits, and
34 departmental evaluations of animal feeding operations. The
35 department shall not require that a person obtain a permit for

1 the construction of an animal feeding operation structure, if
2 the structure is part of a small animal feeding operation.

3 b. The department shall collect an indemnity fee as
4 provided in section 204.3 prior to the issuance of a
5 construction permit. The department shall deposit moneys
6 collected in indemnity fees in the manure storage indemnity
7 fund created in section 204.2.

8 c. The department shall not approve a permit for the
9 construction of three or more animal feeding operation
10 structures unless the applicant files a statement approved by
11 a professional engineer registered pursuant to chapter 542B
12 certifying that the construction of the animal feeding
13 operation structure will not impede the drainage through
14 established drainage tile lines which cross property boundary
15 lines unless measures are taken to reestablish the drainage
16 prior to completion of construction. ~~The department shall~~
17 ~~deposit moneys collected in indemnity fees in the manure~~
18 ~~storage indemnity fund created in section 204.2.~~ The
19 department shall not approve a permit for the construction of
20 an unformed manure storage structure.

21 d. The department shall issue a permit for an animal
22 feeding operation, if an application is submitted according to
23 procedures required by the department, and the application
24 meets standards established by the department, regardless of
25 whether the animal feeding operation is required to obtain
26 such a permit. An applicant for a construction permit shall
27 not begin construction at the location of a site planned for
28 the construction of an animal feeding operation structure,
29 until the person has been granted a permit for the
30 construction of the structure by the department. The
31 department shall make a determination regarding the approval
32 or denial of a permit within sixty days from the date that the
33 department receives a completed application for a permit.
34 However, the sixty-day requirement shall not apply to an
35 application, if the applicant is not required to obtain a

1 permit in order to construct an animal feeding operation
2 structure or to operate an animal feeding operation. The
3 department shall deliver a copy or require the applicant to
4 deliver a copy of the application for a construction permit to
5 the county board of supervisors in the county where the
6 confinement feeding operation or confinement feeding operation
7 structure subject to the permit is to be located. The
8 department shall not approve the application or issue a
9 construction permit until thirty days following delivery of
10 the application to the county board of supervisors. The
11 department shall consider comments from the county board of
12 supervisors, regarding compliance by the applicant with the
13 legal requirements for the construction of the confinement
14 feeding operation structure as provided in this chapter, and
15 rules adopted by the department pursuant to this chapter, if
16 the comments are delivered to the department within fourteen
17 days after receipt of the application by the county board of
18 supervisors.

19 e. Prior to granting a permit to a person for the
20 construction of an animal feeding operation, the department
21 may require the installation and operation of a hydrological
22 monitoring system for an exclusively earthen manure storage
23 structure, if, after an on-site inspection, the department
24 determines that the site presents an extraordinary potential
25 for groundwater pollution.

26 f. A person shall not obtain a permit for the construction
27 of a confinement feeding operation, unless the person develops
28 a manure management plan as provided in section 455B.203.

29 g. The department shall not issue a permit to a person
30 under this subsection if an enforcement action by the
31 department, relating to a violation of this chapter concerning
32 a confinement feeding operation in which the person has an
33 interest, is pending. The department shall not issue a permit
34 to a person under this subsection for five years after the
35 date of the last violation committed by a person or

1 confinement feeding operation in which the person holds a
2 controlling interest during which the person or operation was
3 classified as a habitual violator under section 455B.191. The
4 department shall conduct an annual review of each confinement
5 feeding operation which is a habitual violator and each
6 confinement feeding operation in which a habitual violator
7 holds a controlling interest. The department shall notify
8 persons classified as habitual violators of their
9 classification, additional restrictions imposed upon the
10 persons pursuant to the classification, and special civil
11 penalties that may be imposed upon the persons. The notice
12 shall be sent to the persons by certified mail.

13 Sec. 9. NEW SECTION. 455B.205 UNFORMED MANURE STORAGE
14 STRUCTURES -- PROHIBITION.

15 A person shall not construct or expand an unformed manure
16 storage structure on or after the effective date of this Act.

17 Sec. 10. EFFECTIVE DATE. This Act, being deemed of
18 immediate importance, takes effect upon enactment.

19 EXPLANATION

20 This bill prohibits a person from constructing or expanding
21 an unformed manure storage structure on and after the
22 effective date of the bill. An unformed manure storage
23 structure is defined to mean a covered or uncovered structure,
24 other than a formed manure storage structure, which is used to
25 store manure from a confinement feeding operation, including
26 but not limited to an earthen manure storage basin or
27 anaerobic lagoon. The bill maintains separation distance
28 requirements for animal feeding operation structures which are
29 constructed prior to the effective date of the bill. The bill
30 becomes effective upon enactment.

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