

FILED FEB 19 1968

Rereferred To: Agriculture 3/23/9

SENATE FILE 2273

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 2033)

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

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

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

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

Approved \_\_\_\_\_

A BILL FOR

1 An Act providing requirements for persons receiving a permit for  
 2 the construction of a confinement feeding operation by  
 3 excusing payment of fees for certain persons, providing an  
 4 amnesty period, transferring provisions, providing for  
 5 delinquency penalties, and providing an effective date.  
 6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2273

1 Section 1. Section 204.1, subsections 4 and 9, Code 1997,  
2 are amended to read as follows:

3 4. "Department" means the department of ~~agriculture-and~~  
4 ~~land-stewardship~~ natural resources.

5 9. "Permittee" means a person who, pursuant to section  
6 455B.173, obtains a permit for the construction of a manure  
7 storage structure, or a confinement feeding operation, if a  
8 manure storage structure is connected to the confinement  
9 feeding operation.

10 Sec. 2. Section 204.2, subsection 2, Code 1997, is amended  
11 to read as follows:

12 2. The fund consists of moneys from indemnity fees  
13 remitted by permittees to the department ~~of-natural-resources~~  
14 ~~and-transferred-to-the-department-of-agriculture-and-land~~  
15 ~~stewardship~~ as provided in section 204.3; delinquency  
16 penalties; sums collected on behalf of the fund by the  
17 department through legal action or settlement; moneys required  
18 to be repaid to the department by a county pursuant to this  
19 chapter; civil penalties assessed and collected by the  
20 department ~~of-natural-resources~~ or the attorney general  
21 pursuant to chapter 455B, against ~~permittees~~ animal feeding  
22 operations; moneys paid as a settlement involving an  
23 enforcement action for a civil penalty subject to assessment  
24 and collection against permittees by the department ~~of-natural~~  
25 ~~resources~~ or the attorney general pursuant to chapter 455B;  
26 interest, property, and securities acquired through the use of  
27 moneys in the fund; or moneys contributed to the fund from  
28 other sources.

29 Sec. 3. Section 204.3, unnumbered paragraph 2, Code 1997,  
30 is amended to read as follows:

31 The department ~~of-natural-resources~~ shall deposit moneys  
32 collected from the fees into the fund according to procedures  
33 adopted by the department ~~of-agriculture-and-land-stewardship~~.

34 Sec. 4. 1995 Iowa Acts, chapter 195, section 38, is  
35 amended to read as follows:

## 1 SEC. 38. INDEMNITY FEES -- PRIOR PERMITTEES.

2 1. The indemnity fee imposed upon permittees pursuant to  
3 section 204.3, as enacted in this Act, shall be imposed upon  
4 all persons who have received a permit by the department of  
5 natural resources for the construction of a confinement  
6 feeding operation with a manure storage structure as defined  
7 in section ~~455B-161~~ 204.1, as enacted in this Act, prior to  
8 the effective date of this Act. However, an indemnity fee  
9 shall not be imposed upon a-person the following persons:

10 a. A person who has received a construction permit more  
11 than ten years prior to the effective date of this Act.

12 b. A person who has received a construction permit within  
13 ten years prior to May 31, 1995, if the confinement feeding  
14 operation was not constructed under the permit and the permit  
15 has expired.

16 2. To every extent possible, the department of natural  
17 resources shall notify all persons required to pay the fee.  
18 The notice shall be in writing. The department shall  
19 establish a date when the fees must be paid to the department,  
20 which shall be not less than three months after the delivery  
21 of the notice. If a person is delinquent in paying the  
22 indemnity fee when due, or if upon examination, an  
23 underpayment of the fee is found by the department, the person  
24 is subject to a penalty of ten dollars or an amount equal to  
25 the amount of deficiency for each day of the delinquency,  
26 ~~whichever is less. After-the-date-required-for-payment, the~~  
27 ~~department-shall-transfer-all-outstanding-claims-to-the~~  
28 ~~department-of-agriculture-and-land-stewardship.~~

29 3. The department of natural resources shall ~~deliver-to~~  
30 receive from the department of agriculture and land  
31 stewardship the most current available information regarding  
32 the persons required to pay the fee and any delinquency  
33 ~~penalty, including the names and addresses of the persons, and~~  
34 ~~the capacity of the confinement feeding operations subject to~~  
35 ~~the permit.~~ The department may reduce or waive a delinquency

1 penalty upon a finding that the assessment of the delinquency  
2 penalty would impose a substantial hardship on the person  
3 required to pay the delinquency penalty. The department of  
4 agriculture-and-land-stewardship natural resources, in  
5 cooperation with the attorney general, may bring a court  
6 action in order to collect indemnity fees and delinquency  
7 penalties required to be paid under this section.

8 Sec. 5. AMNESTY PERIOD. Notwithstanding 1995 Iowa Acts,  
9 chapter 195, section 38, a person who has not paid an  
10 indemnity fee as required by that Act, as amended by this Act,  
11 shall not be subject to a delinquency penalty as provided in  
12 that Act, if the person pays the full amount of the indemnity  
13 fee to the department of agriculture and land stewardship on  
14 or before October 1, 1998, as required by the department.

15 Sec. 6. EFFECT OF THIS ACT. Nothing in this Act requires  
16 the department of natural resources or the department of  
17 agriculture and land stewardship to refund an indemnity fee or  
18 delinquency penalty payment paid by permittees pursuant to  
19 1995 Iowa Acts, chapter 195, section 38.

20 Sec. 7. DIRECTIONS TO IOWA CODE EDITOR. The Iowa Code  
21 editor is directed to transfer chapter 204, as amended by this  
22 Act, to new chapter 456 or another chapter determined  
23 appropriate by the Iowa Code editor. The Iowa Code editor  
24 shall correct internal references as necessary.

25 Sec. 8. EFFECTIVE DATE. This Act, being deemed of  
26 immediate importance, takes effect upon enactment.

27 EXPLANATION

28 In 1995, the General Assembly enacted House File 519, which  
29 in part established Code chapter 204 creating a manure storage  
30 indemnity fund under the control of the department of  
31 agriculture and land stewardship. The fund is supported by an  
32 indemnity fee assessed upon persons required to obtain a  
33 permit for the construction of a confinement feeding  
34 operation. House File 519 also provided that the fee would be  
35 assessed on persons who received a permit from the department

1 more than 10 years prior to the effective date of the Act.  
2 Fees were due not later than three months after receipt of a  
3 notice delivered to permittees. This bill transfers  
4 responsibility for administering the fund to the department of  
5 natural resources. This bill provides that the indemnity fee  
6 is not assessable if the confinement feeding operation was not  
7 constructed under the permit and the permit has expired. The  
8 bill also provides that a person who has not paid an indemnity  
9 fee is not subject to a delinquency penalty if the person pays  
10 the full amount of the indemnity fee to the department of  
11 agriculture and land stewardship on or before June 30, 1998,  
12 as required by the department. The Code editor is directed to  
13 move chapter 204 to a new chapter closer to chapters governing  
14 the department of natural resources.

15 The Act takes effect upon enactment.

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SSB 2033

Agriculture  
Succeeded By  
SF/HF 2273

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON RENSINK)

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

**A BILL FOR**

1 An Act providing for fees imposed upon persons receiving a permit  
2 for the construction of a confinement feeding operation with a  
3 manure storage structure, by excusing payment for certain  
4 persons, providing an amnesty period, and providing an  
5 effective date.

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

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2 amended to read as follows:

3 SEC. 38. INDEMNITY FEES -- PRIOR PERMITTEES.

4 1. The indemnity fee imposed upon permittees pursuant to  
5 section 204.3, as enacted in this Act, shall be imposed upon  
6 all persons who have received a permit by the department of  
7 natural resources for the construction of a confinement  
8 feeding operation with a manure storage structure as defined  
9 in section ~~455B-161~~ 204.1, as enacted in this Act, prior to  
10 the effective date of this Act. However, an indemnity fee  
11 shall not be imposed upon a-person the following persons:

12 a. A person who has received a construction permit more  
13 than ten years prior to the effective date of this Act.

14 b. A person who has received a construction permit within  
15 ten years prior to May 31, 1995, if the confinement feeding  
16 operation was not constructed under the permit and the permit  
17 has expired.

18 2. To every extent possible, the department shall notify  
19 all persons required to pay the fee. The notice shall be in  
20 writing. The department shall establish a date when the fees  
21 must be paid to the department, which shall be not less than  
22 three months after the delivery of the notice. If a person is  
23 delinquent in paying the indemnity fee when due, or if upon  
24 examination, an underpayment of the fee is found by the  
25 department, the person is subject to a penalty of ten dollars  
26 or an amount equal to the amount of deficiency for each day of  
27 the delinquency, whichever is less.

28 3. After the date required for payment, the department  
29 shall transfer all outstanding claims to the department of  
30 agriculture and land stewardship. The department of natural  
31 resources shall deliver to the department of agriculture and  
32 land stewardship the most current available information  
33 regarding the persons required to pay the fee and any  
34 delinquency penalty, including the names and addresses of the  
35 persons, and the capacity of the confinement feeding

1 operations subject to the permit. The department of  
2 agriculture and land stewardship, in cooperation with the  
3 attorney general, may bring a court action in order to collect  
4 indemnity fees and delinquency penalties required to be paid  
5 under this section.

6 Sec. 2. AMNESTY PERIOD. Notwithstanding 1995 Iowa Acts,  
7 chapter 195, section 38, a person who has not paid an  
8 indemnity fee as required by that Act, as amended by this Act,  
9 shall not be subject to a delinquency penalty as provided in  
10 that Act, if the person pays the full amount of the indemnity  
11 fee to the department of agriculture and land stewardship on  
12 or before June 30, 1998, as required by the department.

13 Sec. 3. EFFECT OF THIS ACT. Nothing in this Act requires  
14 the department of natural resources or the department of  
15 agriculture and land stewardship to refund an indemnity fee or  
16 delinquency penalty payment paid by permittees pursuant to  
17 1995 Iowa Acts, chapter 195, section 38.

18 Sec. 4. EFFECTIVE DATE. This Act, being deemed of  
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30 Fees were due not later than three months after receipt of a  
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32 fee is not assessable if the confinement feeding operation was  
33 not constructed under the permit and the permit has expired.  
34 The bill also provides that a person who has not paid an  
35 indemnity fee is not subject to a delinquency penalty if the

1 person pays the full amount of the indemnity fee to the  
2 department of agriculture and land stewardship on or before  
3 June 30, 1998, as required by the department.

4 The Act takes effect upon enactment.

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