

SENATE FILE 234
BY JUDGE

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

A BILL FOR

1 An Act providing for the regulation of animal feeding operations,
2 including confinement swine feeding operations, and the
3 application of manure, including regulation by the department
4 of natural resources and other entities, providing for the
5 applicability of penalties, and providing for an effective
6 date.

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

- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S.F. 234

1 Section 1. NEW SECTION. 103A.7A SWINE CONFINEMENT
2 FEEDING OPERATION STRUCTURES -- MODEL CODE.

3 The commissioner shall establish a model building code for
4 confinement swine feeding operation structures required to
5 obtain a license as provided in section 455B.173, for use by
6 counties in amending their building codes.

7 Sec. 2. Section 137.6, Code 1997, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 6. Monitor drinking water wells which
10 exist in close proximity to animal feeding operations as
11 provided by the state department pursuant to section 455B.201.

12 Sec. 3. Section 204.5, unnumbered paragraph 1, Code 1997,
13 is amended to read as follows:

14 A county which has acquired real estate containing a
15 confinement-feeding-operation manure storage structure, or an
16 egg washwater storage structure as defined in section
17 455B.161, following the nonpayment of taxes pursuant to
18 section 446.19, may clean up the site, including removing and
19 disposing of manure at any time. The county may seek
20 reimbursement including by bringing an action for the costs of
21 the removal and disposal from the person abandoning the real
22 estate.

23 Sec. 4. Section 331.304, subsection 3, paragraph b, Code
24 1997, is amended to read as follows:

25 b. A Except as otherwise provided in this paragraph, a
26 county building code shall not apply to farm houses, barns,
27 outbuildings, or other farm buildings or structures which are
28 primarily adapted for use for an agricultural purposes
29 purpose, while so used or under construction for that use.
30 The county building code may apply to a confinement swine
31 feeding operation structure constructed or expanded on or
32 after the effective date of this Act, which is required to
33 obtain a construction permit as provided in section 455B.173.

34 Sec. 5. Section 455B.171, Code 1997, is amended by adding
35 the following new subsections:

1 NEW SUBSECTION. 4A. "Confinement swine feeding operation"
2 means a confinement feeding operation in which swine are
3 confined and fed.

4 NEW SUBSECTION. 4B. "Confinement swine feeding operation
5 structure" means a confinement building or an animal feeding
6 operation structure which is part of a confinement feeding
7 operation, all as defined in section 455B.161.

8 NEW SUBSECTION. 12A. "Manure storage structure" means an
9 animal feeding operation structure used to store manure as
10 part of a confinement feeding operation, including an
11 anaerobic lagoon or earthen manure storage structure, all as
12 defined in section 455B.161.

13 Sec. 6. Section 455B.173, subsection 13, Code 1997, is
14 amended to read as follows:

15 13. a. Adopt, modify, or repeal rules relating to the
16 construction or operation of animal feeding operations. The
17 rules shall include, but are not limited to, minimum manure
18 control requirements, requirements for obtaining permits, and
19 departmental evaluations of animal feeding operations. The
20 department shall not require that a person obtain a permit for
21 the construction of an animal feeding operation structure, if
22 the structure is part of a small animal feeding operation.

23 b. The department shall collect an indemnity fee as
24 provided in section 204.3 prior to the issuance of a
25 construction permit. The department shall deposit moneys
26 collected from indemnity fees in the manure storage indemnity
27 fund created in section 204.2.

28 c. The department shall not approve a permit for the
29 construction of a confinement swine feeding operation
30 structure or three or more other animal feeding operation
31 structures, unless the applicant files a statement approved by
32 a professional engineer registered pursuant to chapter 542B
33 certifying that the construction of the animal-feeding
34 operation structure will not impede the drainage through
35 established drainage tile lines which cross property boundary

1 lines unless measures are taken to reestablish the drainage
2 prior to completion of construction. ~~The department shall~~
3 ~~deposit moneys collected in indemnity fees in the manure~~
4 ~~storage indemnity fund created in section 204-2.~~ The permit
5 for a confinement swine feeding operation structure shall be
6 conditional upon the removal of any drainage tile located
7 within fifty feet of the structure prior to its operation,
8 according to rules adopted by the department, which shall
9 provide for the removal, capping, and rerouting of the
10 drainage tile.

11 d. The department shall issue a permit for an animal
12 feeding operation, if an application is submitted according to
13 procedures required by the department, and the application
14 meets standards established by the department, regardless of
15 whether the animal feeding operation is required to obtain
16 such a permit. An applicant for a construction permit shall
17 not begin construction at the location of a site planned for
18 the construction of an animal feeding operation structure,
19 until the person has been granted a permit for the
20 construction of the structure by the department. The
21 department shall make a determination regarding the approval
22 or denial of a permit within sixty days from the date that the
23 department receives a completed application for a permit.
24 However, the sixty-day requirement shall not apply to an
25 application, if the applicant is not required to obtain a
26 permit in order to construct an animal feeding operation
27 structure or to operate an animal feeding operation. The
28 department shall deliver a copy or require the applicant to
29 deliver a copy of the application for a construction permit to
30 the county board of supervisors in the county where the
31 confinement feeding operation or confinement feeding operation
32 structure subject to the permit is to be located. The
33 department shall not approve the application or issue a
34 construction permit until thirty days following delivery of
35 the application to the county board of supervisors. The

1 department shall consider comments from the county board of
2 supervisors, regarding compliance by the applicant with the
3 legal requirements for the construction of the confinement
4 feeding operation structure as provided in this chapter, and
5 rules adopted by the department pursuant to this chapter, if
6 the comments are delivered to the department within fourteen
7 days after receipt of the application by the county board of
8 supervisors.

9 e. Prior to granting a permit to a person for the
10 construction of an animal feeding operation, the department
11 may require the installation and operation of a hydrological
12 monitoring system for an exclusively earthen manure storage
13 structure, if, after an on-site inspection, the department
14 determines that the site presents an extraordinary potential
15 for groundwater pollution. The department shall require the
16 installation and operation of a hydrological monitoring system
17 for a manure storage structure which is part of a confinement
18 feeding operation prior to issuing a permit to the confinement
19 feeding operation, unless after an on-site inspection, the
20 department determines that no potential for groundwater
21 pollution exists.

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

25 g. During each major stage of construction, the department
26 shall conduct an inspection of the confinement swine feeding
27 operation structure subject to a permit required to be
28 approved by the department, in order to ensure that a
29 confinement swine feeding operation structure is being
30 constructed according to design requirements approved by the
31 department. A confinement swine feeding operation structure
32 shall not operate unless the department conducts a final
33 inspection and certifies that the confinement swine feeding
34 operation structure is constructed according to requirements
35 approved by the department. The department shall conduct an

1 annual inspection of each confinement swine feeding operation
2 required to obtain a construction permit under this section.

3 h. The department shall not issue a permit to a person
4 under this subsection if an enforcement action by the
5 department, relating to a violation of this chapter concerning
6 a confinement feeding operation in which the person has an
7 interest, is pending. The department shall not issue a permit
8 to a person under this subsection for five years after the
9 date of the last violation committed by a person or
10 confinement feeding operation in which the person holds a
11 controlling interest during which the person or operation was
12 classified as a habitual violator under section 455B.191. ~~The~~
13 ~~department shall conduct an annual review of each confinement~~
14 ~~feeding operation which is a habitual violator and each~~
15 ~~confinement feeding operation in which a habitual violator~~
16 ~~holds a controlling interest.~~ The department shall notify
17 persons classified as habitual violators of their
18 classification, additional restrictions imposed upon the
19 persons pursuant to the classification, and special civil
20 penalties that may be imposed upon the persons. The notice
21 shall be sent to the persons by certified mail.

22 Sec. 7. Section 455B.201, subsection 4, Code 1997, is
23 amended to read as follows:

24 4. A person shall not apply manure by spray irrigation
25 equipment, ~~except as provided by rules which shall be adopted~~
26 ~~by the department pursuant to chapter 17A.~~

27 Sec. 8. Section 455B.201, Code 1997, is amended by adding
28 the following new subsections:

29 NEW SUBSECTION. 5. The department shall provide for the
30 installation and operation of a hydrological monitoring system
31 for a manure storage structure which is part of a confinement
32 feeding operation structure, unless after an on-site
33 inspection, the department determines that the site presents
34 no potential for groundwater pollution.

35 NEW SUBSECTION. 6. The department shall do all of the

1 following:

2 a. Cooperate with the Iowa department of public health in
3 regularly monitoring drinking water wells which are located in
4 close proximity to animal feeding operations. The monitoring
5 may be performed by employees of a county board of health in
6 the county where a drinking water well is located and reported
7 to the department of natural resources as provided by the Iowa
8 department of public health.

9 b. Regularly inspect and evaluate the structural integrity
10 of manure storage structures which are part of confinement
11 swine feeding operations. The department shall annually
12 inspect and evaluate all anaerobic lagoons and earthen manure
13 storage basins which are part of those operations and for
14 which a construction permit has been issued by the department.

15 NEW SUBSECTION. 7. Drainage tile shall not be located
16 within fifty feet from a manure storage structure which is
17 part of a confinement swine feeding operation. The department
18 shall adopt rules for the inspection, removal, capping, and
19 rerouting of the drainage tile. The owner of a confinement
20 swine feeding operation shall comply with this subsection not
21 later than July 1, 1998.

22 Sec. 9. Section 455B.203, subsection 2, Code 1997, is
23 amended by adding the following new paragraph:

24 NEW PARAGRAPH. h. A written record describing actions
25 taken to determine the existence of drainage tile lines,
26 including the findings, and actions taken to comply with
27 permit requirements in section 455B.173, and minimum manure
28 control requirements provided in section 455B.201.

29 Sec. 10. DEPARTMENT OF NATURAL RESOURCES RULES REQUIRED.
30 The department of natural resources shall adopt as rules
31 recommended manure application practices as provided in 567
32 IAC 65, to apply to confinement swine feeding operations,
33 unless inconsistent with statute or rules required to
34 implement this Act.

35 Sec. 11. EFFECTIVE DATE. This Act, being deemed of

1 immediate importance, takes effect upon enactment.

2

EXPLANATION

3 This bill provides for the regulation of animal feeding
4 operations, including confinement feeding operations, and the
5 application of manure on land. As provided in the bill, a
6 confinement swine feeding operation is an area in which swine
7 are confined to buildings and fed and maintained for 45 days
8 or more in any 12-month period, including all structures used
9 for the storage of manure from animals in the operation.

10 The bill requires the state building code commissioner to
11 establish a model building code for confinement swine feeding
12 operation structures. The bill provides that a county
13 building code may apply to a confinement feeding operation
14 structure.

15 The bill authorizes a local board of health to monitor
16 drinking water wells which exist in close proximity to animal
17 feeding operations. The bill amends a provision which allows
18 a county to be reimbursed for acquiring real estate where an
19 animal feeding operation is located, by allowing reimbursement
20 for cleaning up an anaerobic lagoon.

21 The bill provides for the removal of any drainage tile
22 located within 50 feet of a confinement swine feeding
23 operation structure.

24 The bill requires the department to install and operate a
25 hydrological monitoring system for a manure storage structure
26 which is part of a confinement feeding operation prior to
27 issuing a permit. The bill requires that during each major
28 stage of construction, the department must conduct an
29 inspection of the confinement swine feeding operation
30 structure which is subject to a permit. The bill provides for
31 annual inspections of confinement feeding operations.

32 The bill prohibits the use of spray irrigation equipment to
33 apply manure.

34 The bill requires hydrological monitoring of manure storage
35 structures which are part of confinement swine feeding

1 operation structures. The bill requires the department to
2 cooperate with the Iowa department of public health in
3 regularly monitoring drinking water wells which are located in
4 close proximity to animal feeding operations. The bill
5 requires the department to regularly inspect and evaluate the
6 structural integrity of manure storage structures which are
7 part of confinement swine feeding operations. The bill
8 requires that drainage tile cannot be located within 50 feet
9 from a manure storage structure which is part of a confinement
10 swine feeding operation.

11 The bill requires the department of natural resources to
12 adopt as rules recommended manure application practices as
13 provided in 567 IAC 65.2(1) to apply to confinement swine
14 feeding operations.

15 Chapter 455B includes provisions imposing penalties upon
16 violators which are applicable to the provisions of this bill.
17 A person who violates water quality provisions is subject to a
18 civil penalty of not more than \$5,000 unless the person is
19 classified as a habitual violator, pursuant to section
20 455B.191. A habitual violator may be subject to a civil
21 penalty of not more than \$25,000.

22 The bill takes effect upon enactment.

23
24
25
26
27
28
29
30
31
32
33
34
35