

SENATE FILE 94
BY KIBBIE

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

A BILL FOR

1 An Act relating to animal feeding operations by regulating animal
2 feeding operation structures.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S.F. 94

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

3 NEW SUBSECTION. 17A. "Qualified animal feeding operation
4 structure" means an animal feeding operation structure other
5 than a single-stage anaerobic lagoon or earthen manure storage
6 basin.

7 NEW SUBSECTION. 18A. "Single-stage anaerobic lagoon"
8 means an anaerobic lagoon that uses a single impoundment in
9 the process of stabilizing organic wastes which are stored in
10 the impoundment.

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

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

16 Except as provided in this section, the following tables
17 shall apply to animal feeding operation structures constructed
18 or expanded on or after May 31, 1995, but prior to the
19 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. A single-stage anaerobic lagoon or
23 earthen manure storage basin shall not be constructed or
24 expanded on or after the effective date of this Act. Except
25 as provided in this section, the following tables shall apply
26 to qualified animal feeding operation structures constructed
27 or expanded on or after the effective date of this Act:

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

33 Minimum
34 separation
35 distance in

	Minimum separation distance in feet for operations having an animal weight capacity of 625,000 or more pounds but less than 1,250,000 pounds for animals other than bovine, or 1,600,000 pounds for animals other than bovine, or less than 1,600,000 pounds for bovine	Minimum separation distance in feet for operations having an animal weight capacity of 1,250,000 or more pounds but less than 4,000,000 pounds for bovine	Minimum separation distance in feet for operations having an animal weight capacity of 1,250,000 or more pounds for animals other than bovine, or 4,000,000 or more pounds for bovine
1		feet for	
2		operations	
3	Minimum	having an	Minimum
4	separation	animal	separation
5	distance in	weight	distance in
6	feet for	capacity of	distance in
7	operations	625,000 or	feet for
8	having an	more pounds	operations
9	animal	but less than	having an
10	weight	1,250,000	animal
11	capacity of	pounds for	weight
12	less than	animals other	capacity of
13	625,000	than bovine,	1,250,000 or
14	pounds for	or 1,600,000	more pounds
15	animals other	or more	for animals
16	than bovine,	pounds but	other than
17	or less than	less than	bovine, or
18	1,600,000	4,000,000	4,000,000 or
19	pounds for	pounds for	more pounds
20	Type of structure	bovine	for bovine
21	Multiple-stage		
22	anaerobic		
23	lagoon	1,250	1,875
24	Uncovered formed		
25	manure storage		
26	structure	1,000	1,500
27	Covered formed		
28	manure storage		
29	structure	750	1,000
30	Confinement		
31	building	750	1,000
32	Egg washwater		
33	storage structure	750	1,000

34 b. The following table represents the minimum separation
 35 distance in feet required between a qualified animal feeding

1 operation structure and a public use area or a residence not
 2 owned by the owner of the animal feeding operation, a
 3 commercial enterprise, a bona fide religious institution, or
 4 an educational institution located within the corporate limits
 5 of a city:

6		Minimum	
7		separation	
8		distance in	
9		feet for	
10		operations	
11	Minimum	having an	
12	separation	animal	Minimum
13	distance in	weight	separation
14	feet for	capacity of	distance in
15	operations	625,000 or	feet for
16	having an	more pounds	operations
17	animal	but less than	having an
18	weight	1,250,000	animal
19	capacity of	pounds for	weight
20	less than	animals other	capacity of
21	625,000	than bovine,	1,250,000 or
22	pounds for	or 1,600,000	more pounds
23	animals other	or more	for animals
24	than bovine,	pounds but	other than
25	or less than	less than	bovine, or
26	1,600,000	4,000,000	4,000,000 or
27	pounds for	pounds for	more pounds
28	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>
29	Qualified animal		
30	feeding operation		
31	structure	1,250	1,875 2,500

32 NEW SUBSECTION. 3. An animal feeding operation structure
 33 constructed prior to May 31, 1995, may be expanded only as
 34 provided in section 455B.163.

35 Sec. 5. Section 455B.163, unnumbered paragraph 1, Code

1 1997, is amended to read as follows:

2 An animal feeding operation constructed prior to the
3 applicability of a requirement in section 455B.162, which does
4 not comply with the ~~distance-requirements-of-section-455B-162~~
5 ~~on-May-31-1995~~ requirement, may continue to operate
6 regardless of ~~those-separation-distances~~ the requirement. The
7 animal feeding operation may be expanded ~~on-or-after-May-31-~~
8 ~~1995~~, ~~regardless-of-those-separation-distances~~ at any time, if
9 either all of the following applies:

10 Sec. 6. Section 455B.163, Code 1997, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 3. The animal feeding operation structure
13 is a qualified animal feeding operation structure.

14 Sec. 7. Section 455B.173, subsection 13, Code 1997, is
15 amended to read as follows:

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

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

29 c. The department shall not approve a permit for the
30 construction of three or more 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
5 department shall not approve a permit for the construction of
6 an animal feeding operation structure other than a qualified
7 animal feeding operation structure.

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

1 feeding operation structure as provided in this chapter, and
2 rules adopted by the department pursuant to this chapter, if
3 the comments are delivered to the department within fourteen
4 days after receipt of the application by the county board of
5 supervisors.

6 e. Prior to granting a permit to a person for the
7 construction of an animal feeding operation, the department
8 may require the installation and operation of a hydrological
9 monitoring system for an exclusively earthen manure storage
10 structure, if, after an on-site inspection, the department
11 determines that the site presents an extraordinary potential
12 for groundwater pollution.

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

16 g. The department shall not issue a permit to a person
17 under this subsection if an enforcement action by the
18 department, relating to a violation of this chapter concerning
19 a confinement feeding operation in which the person has an
20 interest, is pending. The department shall not issue a permit
21 to a person under this subsection for five years after the
22 date of the last violation committed by a person or
23 confinement feeding operation in which the person holds a
24 controlling interest during which the person or operation was
25 classified as a habitual violator under section 455B.191. The
26 department shall conduct an annual review of each confinement
27 feeding operation which is a habitual violator and each
28 confinement feeding operation in which a habitual violator
29 holds a controlling interest. The department shall notify
30 persons classified as habitual violators of their
31 classification, additional restrictions imposed upon the
32 persons pursuant to the classification, and special civil
33 penalties that may be imposed upon the persons. The notice
34 shall be sent to the persons by certified mail.

35 EXPLANATION

1 This bill prohibits a person from constructing or expanding
2 a single-stage anaerobic lagoon or earthen manure storage
3 basin on and after the effective date of the bill. A single-
4 stage anaerobic lagoon is defined to mean an anaerobic lagoon
5 that uses a single impoundment in the process of stabilizing
6 organic wastes which are stored in the impoundment. The bill
7 maintains separation distance requirements for animal feeding
8 operation structures which are constructed prior to the
9 effective date of the bill.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35