

FILED FEB 16 2000

SENATE FILE

2182

BY KIBBIE

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

A BILL FOR

1 An Act requiring that a person who owns or controls animals under
 2 a production contract is liable for civil penalties arising
 3 out of violations of the terms and conditions of a manure
 4 management plan submitted by the owner of a confinement
 5 feeding operation in which the animals are fed.

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

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SF 2182

NAT. RES. & ENVIRONMENT

1 Section 1. Section 455B.171, Code 1999, is amended by
2 adding the following new subsections:

3 NEW SUBSECTION. 8A. "Confinement feeding operation
4 contractor" means a person who owns or controls animals as
5 provided in section 455B.200B, if all of the following apply:

6 a. The person executes a production contract with a
7 contract producer or another party for the feeding of the
8 animals owned or controlled by the person as provided in
9 section 455B.200B.

10 b. A contract producer provides for the feeding of the
11 animals pursuant to a production contract executed by the
12 contract producer, regardless of whether the person is a party
13 to that contract.

14 c. The person owns or controls a total of two hundred
15 thousand pounds or less of animals other than bovine animals
16 or four hundred thousand pounds or less of bovine animals.

17 NEW SUBSECTION. 9A. "Contract confinement feeding
18 operation" means a confinement feeding operation in which
19 animals owned or controlled by a contractor as provided in
20 section 455B.200B are confined and fed by a contract producer
21 pursuant to a production contract.

22 NEW SUBSECTION. 9B. "Contract producer" means a person
23 who holds a legal interest in a contract confinement feeding
24 operation and who confines and feeds animals owned or
25 controlled by a confinement feeding operation contractor as
26 provided in section 455B.200B.

27 NEW SUBSECTION. 27A. "Production contract" means an oral
28 or written agreement executed by a confinement feeding
29 operation contractor and another party who may be a contract
30 producer, if all of the following apply:

31 a. The agreement provides for the feeding of animals owned
32 or controlled by the confinement feeding operation contractor
33 as provided in section 455B.200B.

34 b. The contract producer carries out the feeding at the
35 contract producer's contract confinement feeding operation

1 according to the terms of that agreement or another agreement.

2 Sec. 2. Section 455B.191, subsection 8, Code 1999, is
3 amended to read as follows:

4 8. The following shall apply to violations involving
5 animal feeding operations:

6 a. The department or a court is not required to impose the
7 same penalty upon a confinement feeding operation contractor
8 as the owner of a confinement feeding operation who is a
9 contract producer for a violation of section 455B.203.

10 b. Moneys assessed and collected in civil penalties and
11 interest earned on civil penalties, arising out of a violation
12 involving an animal feeding operation, shall be deposited in
13 the manure storage indemnity fund as created in section
14 455J.2.

15 Sec. 3. Section 455B.200B, Code 1999, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 3. A person owns or controls animals as a
18 confinement feeding operation contractor if the person does
19 any of the following:

20 a. Owns a legal interest in the animals.

21 b. Holds the right to purchase or sell the animals.

22 Sec. 4. Section 455B.203, subsection 2, Code 1999, is
23 amended to read as follows:

24 2. a. A person shall not remove manure from a manure
25 storage structure which is part of a confinement feeding
26 operation for which a manure management plan is required under
27 this section, unless the department approves a manure
28 management plan submitted by the owner of the confinement
29 feeding operation as provided by the department on forms
30 prescribed by the department. The department may adopt rules
31 allowing a person to remove manure from a manure storage
32 structure until the manure management plan is approved or
33 disapproved by the department according to terms and
34 conditions required by rules adopted by the department.

35 b. The department shall not approve a manure management

1 plan unless it is signed by the person required to submit the
2 plan. If the manure management plan is required to be
3 submitted by the owner of a contract confinement feeding
4 operation who is a contract producer, the manure management
5 plan must be jointly signed by the owner and the confinement
6 feeding operation contractor who owns or controls the animals
7 pursuant to a production contract.

8 c. The department shall approve or disapprove a manure
9 management plan within sixty days of the date that the
10 department receives a completed plan. The department shall
11 not issue a permit for the construction of a confinement
12 feeding operation or a related animal feeding operation
13 structure unless the applicant submits a manure management
14 plan together with an application as provided in section
15 455B.200A.

16 Sec. 5. Section 455B.203, subsection 7, Code 1999, is
17 amended to read as follows:

18 7. A person submitting required to sign a manure
19 management plan for approval by the department who is found in
20 violation of the terms and conditions of the plan shall not be
21 subject to an enforcement action other than assessment of a
22 civil penalty pursuant to section 455B.191.

23 EXPLANATION

24 This bill amends Code chapter 455B which in part regulates
25 animal feeding operations, including confinement feeding
26 operations, by the department of natural resources. Code
27 section 455B.203 provides requirements for submitting manure
28 management plans by persons who are owners of confinement
29 feeding operations; which is usually the owner of the
30 confinement feeding operation. The Code section prohibits a
31 person from removing manure from a manure storage structure
32 which is part of a confinement feeding operation, unless the
33 department approves a manure management plan.

34 This bill prohibits the department from approving a manure
35 management plan, unless it is signed by the person required to

1 submit the plan. The bill provides that if the manure
2 management plan is required to be submitted by the owner of a
3 contract confinement feeding operation who is a contract
4 producer, the manure management plan must be jointly signed by
5 the owner and the confinement feeding operation contractor who
6 owns or controls the animals pursuant to a production
7 contract. The bill defines a confinement feeding operation
8 contractor as a person who executes a production contract in
9 which the animals owned or controlled by the person are fed by
10 the owner of the confinement feeding operation.

11 The bill provides that a person required to sign a manure
12 management plan found in violation of the terms and conditions
13 of the plan is subject to a civil penalty pursuant to Code
14 section 455B.191. That Code section provides that the
15 violator is subject to a civil penalty of not more than
16 \$5,000. A person classified as a habitual violator under that
17 Code section is subject to a civil penalty of up to \$25,000.

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