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SENATE FILE 2347
BY COMMITTEE ON AGRICULTURE

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

A BILL FOR

1 An Act providing for the care, feeding, and disposition of
2 animals in certain animal feeding operations, and providing
3 for the allocation of moneys.

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

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SF 2347

1 Section 1. Section 7D.10A, Code 1999, is amended to read
2 as follows:

3 7D.10A ALLOCATION TO ~~MANURE-STORAGE~~ THE ANIMAL FEEDING
4 OPERATION INDEMNITY FUND.

5 If moneys are not sufficient to support the ~~manure-storage~~
6 animal feeding operation indemnity fund as provided in chapter
7 455J, the executive council may allocate from moneys in the
8 general fund of the state, which are not otherwise obligated
9 or encumbered, an amount to the ~~manure-storage~~ animal feeding
10 operation indemnity fund as provided under section 455J.2.
11 However, not more than a total of one million dollars shall be
12 allocated to the ~~manure-storage~~ animal feeding operation
13 indemnity fund at any time.

14 Sec. 2. Section 159.1, Code 1999, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 2A. "Animal feeding operation" means the
17 same as defined in section 455B.161.

18 Sec. 3. NEW SECTION. 159.32 EMERGENCY ORDER.

19 The department may issue an emergency order for the care
20 and feeding of animals kept in an animal feeding operation as
21 provided in this section.

22 1. The order shall only apply to an animal feeding
23 operation that keeps five hundred or more animal units as
24 defined in section 455J.1. However, regardless of the number
25 of animal units kept at the animal feeding operation, the
26 order shall apply to an animal feeding operation which keeps
27 more than five hundred cattle, one thousand swine, or twenty
28 thousand chickens or turkeys.

29 2. The department may only issue an emergency order under
30 this section after receiving a petition by a county board of
31 supervisors in the county where the animal feeding operation
32 is located. The petition must include all of the following:

- 33 a. A description of the animal feeding operation,
34 including its address and the name of its owner.
- 35 b. A statement providing that the county will relinquish

1 the right to rescue or maintain neglected livestock as
2 provided in section 717.2A, or relinquish any claim for
3 maintenance provided to the neglected livestock according to
4 the terms of the emergency order.

5 c. A statement by a veterinarian licensed pursuant to
6 chapter 169 certifying that there is a clear, present, and
7 impending danger to the health of the animals due to a failure
8 to provide the animals care and feeding consistent with
9 customary animal husbandry practices.

10 3. The department may require that the state veterinarian
11 conduct an inspection of the animal feeding operation as
12 determined necessary by the department prior to issuing the
13 emergency order. The department may require inspections of
14 the animals by a state veterinarian during any period that the
15 emergency order is in effect. A county sheriff shall take all
16 actions necessary in order to rescue animals as directed by
17 the department. The law enforcement officer may enter onto an
18 animal feeding operation if the officer obtains a search
19 warrant issued by a court, or enters onto the premises in a
20 manner consistent with the laws of this state and the United
21 States, including Article I, section 8 of the Constitution of
22 the State of Iowa, or Amendment 4 to the Constitution of the
23 United States.

24 4. An emergency order is binding and effective
25 immediately, unless the order is modified, vacated, or stayed
26 at an administrative hearing or by a district court. The
27 emergency order shall be continued, modified, or revoked
28 within thirty days. If the department is appointed as a
29 receiver pursuant to section 159.32, the emergency order shall
30 continue until the receivership expires.

31 5. The emergency order may provide for any of the
32 following:

33 a. Reimbursement of expenses incurred by the county in
34 providing maintenance to neglected livestock as provided in
35 section 717.5, if the county subrogates its right to receive

1 moneys from the disposition of the animals under that section.

2 b. Rescuing, maintaining, and disposing of animals kept in
3 the animal feeding operation in the same manner as a local
4 authority as provided in sections 717.2A and 717.5, if the
5 county subrogates its right to receive moneys from the
6 disposition of the animals under that section.

7 c. Authorization under receivership as provided in section
8 159.33.

9 Sec. 4. NEW SECTION. 159.33 RECEIVERSHIP.

10 1. Upon issuance of an emergency order pursuant to section
11 159.32, the department may file a petition in the district
12 court requesting that the department be appointed as a
13 receiver to take custody of the animals, to provide for the
14 care and feeding of the animals as provided in section 159.32,
15 and to provide for the disposition of the animals. The
16 petition shall be filed in the county in which the animal
17 feeding operation is located.

18 2. The district court shall appoint the department as
19 receiver, if the court determines that there is a clear,
20 present, and impending danger to the health of the animals due
21 to a failure to provide the animals care and feeding
22 consistent with customary animal husbandry practices. The
23 hearing shall be a civil proceeding. If the case is related
24 to a criminal proceeding, the disposition shall not be part of
25 that proceeding and shall not be considered a criminal penalty
26 imposed on a person found in violation of section 717.2.

27 3. A petition filed by the department under subsection 1
28 shall be accompanied by the department's plan for disposition
29 of the animals, including the sale of all or part of the
30 animals for the benefit of the owner of the animals, the owner
31 of the animal feeding operation, and creditors.

32 4. The department may employ or retain a merchandiser to
33 effect the sale of the animals.

34 5. The department is entitled to reimbursement out of the
35 sale of the animals held in receivership for all expenses

1 incurred as court costs or in handling and disposing of
2 animals, and for all other costs directly attributable to the
3 receivership. The right of reimbursement of the department is
4 prior to any claims against the animals or proceeds of sales
5 of the animals.

6 6. When the plan of disposition is approved by the court
7 and executed by the department, the department shall be
8 discharged and the receivership terminated. At the
9 termination of the receivership, the department shall file a
10 final report containing the details of its actions, together
11 with such additional information as the court may require.

12 Sec. 5. NEW SECTION. 159.34 LIEN.

13 1. A statutory lien is imposed on all property of an
14 animal feeding operation subject to receivership under section
15 159.33. The lien shall arise when the department is appointed
16 receiver, and shall terminate when the receivership
17 terminates.

18 2. To perfect the lien, the department must file a lien
19 statement with the office of the county recorder and the
20 secretary of state. The lien statement shall disclose the
21 name of the animal feeding operation owner, and the address of
22 the animal feeding operation. The lien amount shall be the
23 department's estimate of the final cost of administering the
24 receivership reduced by the amount received by the department
25 from the disposition of the animals.

26 3. A lien perfected under this section is superior to and
27 shall have priority over a conflicting lien or security
28 interest in the property, including a lien or security
29 interest that was perfected prior to the creation of the lien
30 under this section.

31 Sec. 6. NEW SECTION. 159.35 ANIMAL FEEDING OPERATION
32 INDEMNITY FUND.

33 Upon the issuance of an emergency order pursuant to section
34 159.32, the department may order the transfer of any
35 unobligated amount deposited into the animal feeding

1 operation's indemnity fund which is necessary in order to pay
2 for costs associated with carrying out the emergency order.
3 The department shall transfer any unexpended moneys into the
4 fund upon the termination of the emergency order.

5 Sec. 7. Section 455B.109, subsection 4, Code 1999, is
6 amended to read as follows:

7 4. All civil penalties assessed by the department and
8 interest on the penalties shall be deposited in the general
9 fund of the state. However, civil penalties assessed by the
10 department and interest on penalties, arising out of
11 violations committed by animal feeding operations under
12 division II, part 2, shall be deposited in the ~~manure-storage~~
13 animal feeding operation indemnity fund as created in section
14 455J.2. Civil penalties assessed by the department and
15 interest on the penalties arising out of violations committed
16 by animal feeding operations under division III, which may be
17 assessed pursuant to section 455B.191, shall be deposited in
18 the ~~manure-storage~~ animal feeding operation indemnity fund as
19 created in section 455J.2.

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

22 8. Moneys assessed and collected in civil penalties and
23 interest earned on civil penalties, arising out of a violation
24 involving an animal feeding operation, shall be deposited in
25 the ~~manure-storage~~ animal feeding operation indemnity fund as
26 created in section 455J.2.

27 Sec. 9. Section 455B.200A, subsection 2, paragraph a, Code
28 1999, is amended to read as follows:

29 a. An indemnity fee as provided in section 455J.3 which
30 the department shall deposit into the ~~manure-storage~~ animal
31 feeding operation indemnity fund created in section 455J.2.

32 Sec. 10. Section 455I.6, subsection 2, Code 1999, is
33 amended to read as follows:

34 2. Moneys collected from the assessment of civil penalties
35 and interest on civil penalties as provided for in this

1 section shall be deposited in the manure-storage animal
2 feeding operation indemnity fund as created in section 455J.2.

3 Sec. 11. Section 455J.1, subsection 5, Code 1999, is
4 amended to read as follows:

5 5. "Fund" means the manure-storage animal feeding
6 operation indemnity fund created in section 455J.2.

7 Sec. 12. Section 455J.2, subsections 1 and 3, Code 1999,
8 are amended to read as follows:

9 1. A-manure-storage-indemnity An animal feeding operation
10 indemnity fund is created as a separate fund in the state
11 treasury under the control of the department. The general
12 fund of the state is not liable for claims presented against
13 the fund.

14 3. The moneys collected under this section shall be
15 deposited in the fund and shall be appropriated to the
16 department for the exclusive-purpose-of-providing-moneys-for
17 following purposes:

18 a. Supporting programs as provided for in this chapter,
19 including providing for the cleanup of abandoned facilities as
20 provided in section 455J.5, and to pay the department for
21 costs related to administering the provisions of this chapter.
22 For each fiscal year, the department shall not use more than
23 one percent of the total amount which is available in the fund
24 or ten thousand dollars, whichever is less, to pay for the
25 costs of administration.

26 b. Paying for administrative costs associated with an
27 emergency order issued by the department of agriculture and
28 land stewardship pursuant to section 159.32.

29 Moneys in the fund shall not be subject to appropriation or
30 expenditure for any other purpose than provided in this
31 section.

32 Sec. 13. Section 455J.2, subsection 5, paragraph b, Code
33 1999, is amended to read as follows:

34 b. The executive council may allocate moneys from the
35 general fund of the state as provided in section 7D.10A in an

1 amount necessary to support the fund, ~~including payment of~~
2 ~~claims as provided in section 455J.5~~ in order to support a
3 program provided in this chapter or an emergency order issued
4 by the department of agriculture and land stewardship pursuant
5 to section 159.32. However, an allocation of moneys from the
6 general fund of the state shall be made only if the amount of
7 moneys in the fund, which are not obligated or encumbered, and
8 not counting the department's estimate of the cost to the fund
9 for pending or unsettled claims and any amount required to be
10 credited to the general fund of the state under this
11 subsection, is less than one million dollars.

12 Sec. 14. NEW SECTION. 717.7 DEPARTMENT OF AGRICULTURE
13 AND LAND STEWARDSHIP -- EMERGENCY ORDER.

14 The department of agriculture and land stewardship may
15 provide for the rescue and disposition of neglected animals as
16 provided in section 159.32.

17 EXPLANATION

18 This bill provides that the department of agriculture and
19 land stewardship may issue an emergency order for the care and
20 feeding of livestock kept in animal feeding operations. The
21 order applies to an animal feeding operation that keeps 500 or
22 more animal units as defined in Code section 455J.1. The bill
23 provides that, regardless of the number of animal units kept
24 at the animal feeding operation, the order shall apply to an
25 animal feeding operation which keeps more than 500 cattle,
26 1,000 swine, or 20,000 chickens or turkeys.

27 The bill provides that the county board of supervisors in
28 the county where the animal feeding operation is located must
29 petition the department. The bill provides that the emergency
30 order may provide for reimbursement of expenses incurred by a
31 county in providing maintenance to neglected livestock as
32 provided in Code section 717.5, if the county subrogates its
33 right to receive moneys from the disposition of the animals
34 under that section. The bill allows the department to rescue,
35 maintain, and dispose of animals in the same manner that a

1 county may rescue, maintain, or dispose of the animals under
2 those Code sections. It also authorizes the department to
3 petition a court to be appointed as a receiver of the animals,
4 in order to take custody of the animals, and to provide for
5 their disposition according to a plan approved by the court.
6 The bill provides for the reimbursement to the department for
7 costs related to administration.

8 The bill imposes a statutory lien on all property of an
9 animal feeding operation subject to receivership. The bill
10 provides procedures for filing the lien. The bill provides
11 that the lien is superior to and shall have priority over a
12 conflicting lien or security interest in the property,
13 including a lien or security interest that was perfected prior
14 to the creation of the lien under this provision of the bill.
15 The bill also authorizes the department to order the transfer
16 of any unobligated moneys in the manure storage indemnity fund
17 which the bill renames as the animal feeding operation
18 indemnity fund.

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