

FILED MAR 8 1999

SENATE FILE 322

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BOLKCOM

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

A BILL FOR

1 An Act providing for unformed manure storage structures
2 associated with animal feeding operations, by providing for
3 their regulation and elimination, providing assistance to
4 close the structures, making penalties applicable, providing
5 for the repeal of sections, and providing an effective date.

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

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SF 322

NAT. RES. & ENVIRONMENT

1 Section 1. Section 455B.161, Code 1999, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 6A. "Authorized animal feeding operation
4 structure" means a confinement building, egg washwater storage
5 structure, or formed manure storage structure.

6 Sec. 2. Section 455B.162, subsection 2, unnumbered
7 paragraph 1, Code 1999, is amended to read as follows:

8 Except as provided in subsection subsections 3B and 6, and
9 sections 455B.163 and 455B.165, this subsection applies to
10 animal feeding operation structures constructed on or after
11 January 1, 1999, but prior to the effective date of this Act,
12 and to the expansion of structures constructed on or after
13 January 1, 1999, but prior to the effective date of this Act.
14 The following table represents the minimum separation distance
15 in feet required between an animal feeding operation structure
16 and a residence not owned by the owner of the animal feeding
17 operation, or a commercial enterprise, bona fide religious
18 institution, or an educational institution:

19 Sec. 3. Section 455B.162, subsection 3, unnumbered
20 paragraph 1, Code 1999, is amended to read as follows:

21 Except as provided in subsection subsections 3B and 6, and
22 sections 455B.163 and 455B.165, this subsection applies to
23 animal feeding operation structures constructed on or after
24 May 31, 1995, but prior to the effective date of this Act; to
25 the expansion of structures constructed on or after May 31,
26 1995, but prior to the effective date of this Act; and to the
27 expansion of structures constructed prior to May 31, 1995.
28 The following table represents the minimum separation distance
29 in feet required between animal feeding operation structures
30 and a public use area or a residence not owned by the owner of
31 the animal feeding operation, a commercial enterprise, a bona
32 fide religious institution, or an educational institution
33 located within the corporate limits of a city:

34 Sec. 4. Section 455B.162, Code 1999, is amended by adding
35 the following new subsections:

1 NEW SUBSECTION. 3A. The following tables shall apply to
 2 authorized animal feeding operation structures constructed or
 3 expanded on or after the effective date of this Act:

4 a. The following table represents the minimum separation
 5 distance in feet required between an authorized animal feeding
 6 operation structure and a residence not owned by the owner of
 7 the animal feeding operation, or a commercial enterprise, bona
 8 fide religious institution, or an educational institution:

	Minimum	Minimum	Minimum
	separation	separation	separation
	distance in	distance in	distance in
	feet for	feet for	feet for
	operations	operations	operations
	having an	having an	having an
	animal	animal	animal
	weight	weight	weight
	capacity of	capacity of	capacity of
	625,000 or	625,000 or	625,000 or
	more pounds	more pounds	more pounds
	but less than	but less than	but less than
	1,250,000	1,250,000	1,250,000
	animals other	animals other	animals other
	than bovine,	than bovine,	than bovine,
	or less than	or less than	or less than
	1,600,000	1,600,000	1,600,000
	or more	or more	or more
	pounds but	pounds but	pounds but
	less than	less than	less than
	4,000,000	4,000,000	4,000,000
	or more	or more	or more
	pounds for	pounds for	pounds for
	bovine	bovine	bovine
9			
10			
11			
12			
13			
14	Minimum	Minimum	Minimum
15	separation	separation	separation
16	distance in	distance in	distance in
17	feet for	feet for	feet for
18	operations	operations	operations
19	having an	having an	having an
20	animal	animal	animal
21	weight	weight	weight
22	capacity of	capacity of	capacity of
23	less than	less than	less than
24	625,000	625,000	625,000
25	pounds for	pounds for	pounds for
26	animals other	animals other	animals other
27	than bovine,	than bovine,	than bovine,
28	or less than	or less than	or less than
29	1,600,000	1,600,000	1,600,000
30	or more	or more	or more
31	<u>Type of structure</u>	<u>bovine</u>	<u>bovine</u>
32	Uncovered formed		
33	manure storage		
34	structure	1,250	2,000
35	Covered formed		

1	manure storage			
2	structure	1,000	1,250	1,875
3	Confinement			
4	building	1,000	1,250	1,875
5	Egg washwater			
6	storage structure	750	1,000	1,500

7 b. The following table represents the minimum separation
 8 distance in feet required between an authorized animal feeding
 9 operation structure and a public use area or a residence not
 10 owned by the owner of the animal feeding operation, a
 11 commercial enterprise, a bona fide religious institution, or
 12 an educational institution located within the corporate limits
 13 of a city:

14		Minimum	
15		separation	
16		distance in	
17		feet for	
18		operations	
19	Minimum	having an	
20	separation	animal	Minimum
21	distance in	weight	separation
22	feet for	capacity of	distance in
23	operations	625,000 or	feet for
24	having an	more pounds	operations
25	animal	but less than	having an
26	weight	1,250,000	animal
27	capacity of	pounds for	weight
28	less than	animals other	capacity of
29	625,000	than bovine,	1,250,000 or
30	pounds for	or 1,600,000	more pounds
31	animals other	or more	for animals
32	than bovine,	pounds but	other than
33	or less than	less than	bovine, or
34	1,600,000	4,000,000	4,000,000 or
35	pounds for	pounds for	more pounds

1 Type of structure bovine bovine for bovine

2 Authorized animal

3 feeding operation

4 structure 1,250 1,875 2,500

5 NEW SUBSECTION. 3B. An animal feeding operation structure
6 constructed prior to the effective date of this Act may be
7 expanded only if it is an authorized animal feeding operation
8 structure as provided in section 455B.163.

9 Sec. 5. Section 455B.163, unnumbered paragraph 1, Code
10 1999, is amended to read as follows:

11 An animal feeding operation constructed or expanded prior
12 to the date that a distance requirement became effective under
13 section 455B.162 and which does not comply with the section's
14 distance requirement may continue to operate regardless of the
15 distance requirement. The An animal feeding operation
16 structure shall not be expanded unless it complies with this
17 section. The animal feeding operation may only be expanded by
18 the construction or expansion of an authorized animal feeding
19 operation structure. In addition, the animal feeding
20 operation may be expanded only if any of the following
21 applies:

22 Sec. 6. Section 455B.171, Code 1999, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 6A. "Authorized animal feeding operation
25 structure" means the same as defined in section 455B.161.

26 Sec. 7. Section 455B.200A, subsection 1, Code 1999, is
27 amended to read as follows:

28 1. The department shall issue permits for the
29 construction, including the expansion, of animal feeding
30 operation structures, including structures which are part of
31 confinement feeding operations, as provided by rules adopted
32 pursuant to section 455B.200. The department shall not issue
33 a permit for the construction of an animal feeding operation
34 structure unless it is an authorized animal feeding operation
35 structure. The department shall issue a permit to an animal

1 feeding operation if an application is submitted according to
2 procedures required by the department and the application
3 meets standards established by the department, regardless of
4 whether the animal feeding operation is required to obtain
5 such a permit. The department shall not require that a person
6 obtain a permit for the construction of an authorized animal
7 feeding operation structure if the structure is part of a
8 small animal feeding operation. For purposes of this section,
9 an animal feeding operation structure includes a manure
10 storage structure.

11 Sec. 8. NEW SECTION. 455B.207 CONSTRUCTION OR EXPANSION
12 AND USE OF UNFORMED MANURE STORAGE STRUCTURES PROHIBITED.

13 1. A person shall not construct or expand an unformed
14 manure storage structure on or after the effective date of
15 this Act.

16 2. A person shall not use an unformed manure storage
17 structure to store manure on or after July 1, 2004.

18 3. This section does not apply to a storage structure that
19 is part of a small animal feeding operation.

20 Sec. 9. Section 455J.1, Code 1999, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 4A. "Designated agricultural drainage
23 well area" means the same as defined in section 455I.1.

24 NEW SUBSECTION. 10. "Unformed manure storage structure"
25 means the same as defined in section 455B.161.

26 Sec. 10. Section 455J.2, subsection 3, Code 1999, is
27 amended to read as follows:

28 3. a. The moneys collected under this section shall be
29 deposited in the fund and shall be appropriated to the
30 department for the ~~exclusive-purpose-of-providing-moneys-for~~
31 following purposes:

32 (1) Supporting programs provided for in this chapter,
33 including all of the following:

34 (a) Providing cost-share moneys to persons for closing
35 unformed manure storage structures as provided in section

1 455J.4A.

2 (b) Providing for the cleanup of abandoned facilities as
3 provided in section 455J.5, -and-to-pay.

4 (2) Reimbursing the department for costs related to
5 administering the provisions of this chapter. For each fiscal
6 year, the department shall not use more than one percent of
7 the total amount which is available in the fund or ten
8 thousand dollars, whichever is less, to pay for the costs of
9 administration.

10 b. Moneys in the fund shall not be subject to
11 appropriation or expenditure for any other purpose than
12 provided in this section.

13 Sec. 11. Section 455J.2, subsection 5, paragraph a, Code
14 1999, is amended to read as follows:

15 a. The first three million dollars deposited in the fund
16 shall be used to support the unformed manure storage structure
17 closure program as provided in section 455J.4A. The remaining
18 moneys in the fund shall be used to provide cleanup of
19 abandoned facilities as provided in section 455J.5.

20 On August 31 following the close of each fiscal year,
21 moneys in the fund which are not obligated or encumbered on
22 June 30 of the past fiscal year, not counting the department's
23 estimate of the cost to the fund for pending or unsettled
24 claims and any amount required to be credited to the general
25 fund of the state under this subsection, in excess of ~~three~~
26 six million dollars shall be deposited in the organic nutrient
27 management fund as created in section 161C.5 for purposes of
28 supporting the organic nutrient management program.

29 Sec. 12. NEW SECTION. 455J.4A UNFORMED MANURE STORAGE
30 STRUCTURE CLOSURE PROGRAM.

31 1. The department shall establish an unformed manure
32 storage structure closure program. To the extent that moneys
33 are available to support the program, the division shall
34 provide cost-share moneys to reimburse a person for costs
35 incurred by the person in closing an unformed manure storage

1 structure.

2 2. The closure must include all of the following:

3 a. Cleanup, including removing and disposing of manure
4 stored in the unformed manure storage structure and
5 remediating any contamination originating from the unformed
6 manure storage structure.

7 b. Converting the unformed manure storage structure to
8 another purpose approved by the department or filling in the
9 structure with soil or other materials in a manner that is
10 approved by the soil conservation division of the department
11 of agriculture and land stewardship.

12 3. The department shall award cost-share moneys first to
13 persons closing unformed manure storage structures located
14 within designated agricultural drainage well areas. The
15 amount of moneys allocated in cost-share payments to a person
16 eligible under the program shall not exceed fifty percent of
17 the estimated cost of closing the unformed manure storage
18 structure or fifty percent of the actual cost of closing the
19 unformed manure storage structure, whichever is less.
20 However, a person shall not receive more than five thousand
21 dollars in cost-share moneys from the fund.

22 4. In order to be eligible to participate in the program,
23 all of the following must apply:

24 a. The person must own an interest in land on which an
25 unformed manure storage structure is located.

26 b. The person must be eligible to file a family farm tax
27 credit for the property where the unformed manure storage
28 structure is located as provided in chapter 425A.

29 c. The person must apply to the department in a manner and
30 according to procedures required by the department.

31 5. A person shall not be eligible to participate in the
32 program if the person is any of the following:

33 a. A party to a pending legal or administrative action,
34 including a contested case proceeding under chapter 17A,
35 relating to an alleged violation involving an animal feeding

1 operation as regulated by the department of natural resources,
2 regardless of whether the pending action is brought by the
3 department or the attorney general.

4 b. Is classified as a habitual violator for a violation of
5 state law involving an animal feeding operation as regulated
6 by the department of natural resources.

7 Sec. 13.

8 1. a. Section 455J.1, subsections 4A and 10, as enacted
9 in this Act, are amended by striking the subsections.

10 b. Section 455J.2, subsection 3, paragraph a, subparagraph
11 (1), subparagraph subdivision (a), as enacted in this Act, is
12 amended by striking the subparagraph subdivision.

13 c. The Code editor is directed to return section 455J.2,
14 subsection 5, paragraph "a", to the language as it appeared in
15 the 1999 Code.

16 d. Section 455J.4A, as enacted in this Act, is repealed.

17 2. This section is effective July 1, 2004.

18 Sec. 14. EFFECTIVE DATE. This Act, being deemed of
19 immediate importance, takes effect upon enactment.

20 EXPLANATION

21 This bill amends provisions concerning unformed manure
22 storage structures related to animal feeding operations.

23 The bill amends provisions in Code chapter 455B which
24 regulate animal feeding operations and related structures.
25 Specifically, the bill prohibits a person from constructing or
26 expanding an unformed manure storage structure on or after the
27 effective date of the bill. An unformed manure storage
28 structure includes an anaerobic lagoon or earthen manure
29 storage basin. The bill prohibits a person from using an
30 unformed manure storage structure on or after July 1, 2004.

31 According to Code section 455B.191, a person who violates
32 Code section 455B.207, as enacted in the bill, is subject to a
33 civil penalty of \$5,000.

34 The bill amends Code chapter 455J, which establishes a
35 manure storage indemnity fund administered by the department.

1 Under current law, the moneys in the fund must be used to
2 provide for cleanup of abandoned facilities. Unobligated and
3 unexpended moneys in the fund in excess of \$3 million must be
4 deposited into the organic nutrient management fund created in
5 Code section 161C.5 for purposes of supporting the organic
6 nutrient management program. This bill provides that the
7 first \$3 million must be used to support a program to close
8 unformed manure storage structures. The bill provides that
9 moneys in excess of \$6 million must be deposited in the
10 organic nutrient management fund.

11 The provisions providing for the program sunset on July 1,
12 2004.

13 The bill takes effect upon enactment.

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