MAR 4 2003 Agriculture

HOUSE FILE 405 BY STEVENS, UPMEYER, FREEMAN, and TJEPKES

Passed	House,	Date	Passed	Senate,	Date	
Vote:	Ayes	Nays	Vote:	Ayes	Nays _	
Approved					•	

A BILL FOR

1 An Act relating to the authority of a local governmental entity to regulate the application, use, sale, and distribution of fertilizers and soil conditioners. 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

s.f. _____ H.f. <u>405</u>

- 1 Section 1. Section 200.22, subsection 1, Code 2003, is
- 2 amended by adding the following new paragraphs:
- NEW PARAGRAPH. Oa. "Agricultural land " means the same as
- 4 defined in section 6A.21.
- 5 NEW PARAGRAPH. Ob. "Commercial applicator" means a person
- 6 who engages in the business of and charges a fee for applying
- 7 fertilizer or soil conditioner on the land of another person,
- 8 including an employee, agent, or subcontractor of the person.
- 9 NEW PARAGRAPH. c. "Major water source" means the same as
- 10 defined in section 459.102.
- 11 NEW PARAGRAPH. d. "Residence" means a house or other
- 12 building which is used as a place of habitation for humans on
- 13 a permanent and frequent basis; is not readily mobile; and is
- 14 connected to a permanent source of electricity, a permanent
- 15 private water supply or a public water supply system, and a
- 16 permanent domestic sewage disposal system including a private,
- 17 semipublic, or public sewage disposal system.
- 18 Sec. 2. Section 200.22, subsections 2 and 3, Code 2003,
- 19 are amended to read as follows:
- 20 2. Except as provided in subsection 3, the following shall
- 21 apply:
- 22 a. The provisions of this chapter and rules adopted by the
- 23 department pursuant to this chapter shall preempt local
- 24 legislation adopted by a local governmental entity relating to
- 25 the use, sale, distribution, storage, transportation,
- 26 disposal, formulation, labeling, registration, or manufacture
- 27 of a fertilizer or soil conditioner.
- 28 b. A local governmental entity shall not adopt or continue
- 29 in effect local legislation relating to the use, sale,
- 30 distribution, storage, transportation, disposal, formulation,
- 31 labeling, registration, or manufacture of a fertilizer or soil
- 32 conditioner, regardless of whether a statute or rule adopted
- 33 by the department applies to preempt the local legislation.
- 34 PARAGRAPH DIVIDED. Local legislation in violation of this
- 35 section is void and unenforceable.

- 3. This-section Subsection 2 does not apply to local any 2 of the following:
- 3 <u>a. Local</u> legislation of general applicability to
- 4 commercial activity.
- b. Local legislation adopted by a local governmental
- 6 entity that regulates the application, use, sale, or
- 7 distribution of a fertilizer or soil conditioner for use on
- 8 land where there is located a residence in the watershed of a
- 9 major water source. The land must be located within the local
- 10 governmental entity's jurisdictional limits, which includes a
- 11 city's incorporated area and the unincorporated area in which
- 12 a city has extended its zoning ordinance pursuant to section
- 13 414.23. However, this paragraph does not apply to local
- 14 legislation that regulates the application, use, sale, or
- 15 distribution of a fertilizer or soil conditioner for any of
- 16 the following:
- 17 (1) Use on agricultural land.
- 18 (2) The activities of a commercial applicator.
- 19 EXPLANATION
- 20 This bill amends Code chapter 200, regulating fertilizers
- 21 and soil conditioners. Code section 200.22 provides that the
- 22 provisions of the chapter and rules adopted by the department
- 23 of agriculture and land stewardship preempt legislative
- 24 measures adopted by a local governmental entity such as a
- 25 county or city, if the local legislation or regulations relate
- 26 to the use, sale, distribution, storage, transportation,
- 27 disposal, formulation, labeling, registration, or manufacture
- 28 of fertilizers and soil conditioners. There is an exception
- 29 for local legislation of general applicability to commercial
- 30 activity. The bill adds another exception to the section by
- 31 providing that state preemption does not apply to local
- 32 legislation that regulates the application, use, sale, or
- 33 distribution of a fertilizer or soil conditioner for use on
- 34 land within the watershed of a lake where there is a
- 35 residence. The bill provides that the exception does not

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s.f. _____ H.f. <u>405</u>
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1 apply if the land is agricultural land or to the activities of
2 a commercial applicator.
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