

Senate Study Bill 1174

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON BEHN)

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

A BILL FOR

1 An Act relating to the animal agriculture compliance Act, and
2 providing for penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 3125XC 80
5 da/pj/5

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1 1 Section 1. Section 459.103, subsection 3, Code 2003, is
1 2 amended to read as follows:
1 3 3. The department and the attorney general shall enforce
1 4 the provisions of ~~this chapter in subchapters II and III using~~
1 5 the same ~~manner administrative and judicial procedures~~ as
1 6 provided in chapter 455B, ~~division I~~, unless otherwise
1 7 provided in this chapter.
1 8 Sec. 2. Section 459.307, unnumbered paragraph 1, Code
1 9 2003, is amended to read as follows:
1 10 The department shall adopt rules establishing construction
1 11 design standards for formed manure storage structures that are
1 12 part of confinement feeding operations other than small animal
1 13 feeding operations. However, the construction design
1 14 standards shall apply to a formed manure storage structure
1 15 that is part of a small animal feeding operation granted an
1 16 exception pursuant to section 459.310.
1 17 Sec. 3. Section 459.310, subsection 1, unnumbered
1 18 paragraph 1, Code 2003, is amended to read as follows:
1 19 Except as provided in this subsection and subsection 3, the
1 20 following shall apply:
1 21 Sec. 4. Section 459.310, subsection 1, Code 2003, is
1 22 amended by adding the following new unnumbered paragraph after
1 23 paragraph b:
1 24 NEW UNNUMBERED PARAGRAPH. The department may grant an
1 25 exception from the requirements in paragraphs "a" and "b" for
1 26 a proposed formed manure storage structure that will be part
1 27 of a small animal feeding operation that commenced operating
1 28 prior to March 1, 2003. In granting the exception, the
1 29 department shall require that the proposed formed manure
1 30 storage structure comply with standards adopted pursuant to
1 31 section 459.307 and shall ensure that the proposed formed
1 32 manure storage structure will provide a higher degree of
1 33 environmental protection than existing manure storage and
1 34 handling facilities. If the proposed formed manure storage
1 35 structure will replace any existing manure storage structure,
2 1 the department shall, as a condition of granting the
2 2 exception, require that any existing manure storage structure
2 3 be properly closed.
2 4 Sec. 5. Section 459.602, Code 2003, is amended to read as
2 5 follows:
2 6 459.602 AIR QUALITY VIOLATIONS ~~-- CIVIL PENALTY.~~
2 7 A person who violates subchapter II shall be subject to a
2 8 ~~civil penalty, including a fine or civil penalty,~~ which shall
2 9 be established, assessed, and collected in the same manner as
2 10 provided in chapter 455B, division II, and section 455B.109.
2 11 Any civil penalty collected shall be deposited in the animal
2 12 agriculture compliance fund created in section 459.401.
2 13 Sec. 6. Section 459.603, Code 2003, is amended to read as
2 14 follows:
2 15 459.603 WATER QUALITY VIOLATIONS ~~-- CIVIL PENALTY.~~
2 16 A person who violates subchapter III shall be subject to a
2 17 penalty, including a fine or civil penalty, which shall be
2 18 established, assessed, and collected in the same manner as
2 19 provided in chapter 455B, division III, and section ~~455B.191~~
2 20 455B.109. Any civil penalty collected shall be deposited in
2 21 the animal agriculture compliance fund created in section
2 22 459.401.

EXPLANATION

2 23
2 24 This bill relates to provisions under the "Animal
2 25 Agriculture Compliance Act" regulating animal feeding
2 26 operations by the department of natural resources (DNR) which
2 27 were amended, enacted, and consolidated in Code chapter 459
2 28 during the 2002 legislative sessions pursuant to Senate File
2 29 2293 and House File 2627 (2002 Iowa Acts, ch. 1137, and 2002
2 30 Iowa Acts, Second Extraordinary Session, ch. 1003).

2 31 As consolidated, Code chapter 459 includes a number of
2 32 subchapters (subchapter I contains general provisions,
2 33 subchapter II regulates air quality, subchapter III requires
2 34 permits and regulates water quality, subchapter IV establishes
2 35 an animal agriculture compliance fund and associated fees,
3 1 subchapter V establishes a manure storage indemnity fund, and
3 2 subchapter VI provides for enforcement).

3 3 WATER QUALITY == DISTANCE REQUIREMENTS. The bill amends
3 4 Code section 459.310, which in part provides that a
3 5 confinement feeding operation structure cannot be constructed
3 6 closer than a certain number of feet from groundwater inlets
3 7 or surface water (the surface intake of an agricultural
3 8 drainage well, wellhead, cistern of an agricultural drainage
3 9 well, known sinkhole, water source, or wetland). The bill
3 10 provides an exception to the prohibition.

3 11 The department may grant an exception from the requirements
3 12 for a proposed formed manure storage structure that will be
3 13 part of a small animal feeding operation that commenced
3 14 operating prior to March 1, 2003. The bill provides that in
3 15 granting the exception, the proposed formed manure storage
3 16 structure must comply with standards adopted pursuant to Code
3 17 section 459.307 and must ensure that the proposed formed
3 18 manure storage structure will provide a higher degree of
3 19 environmental protection than existing manure storage and
3 20 handling facilities. The bill also provides for the closure
3 21 of the existing manure storage structure.

3 22 ENFORCEMENT. Code section 459.103 in part requires the DNR
3 23 and the attorney general to enforce the provisions of Code
3 24 chapter 459 in the same manner as provided in Code chapter
3 25 455B, division I. The bill amends the provision to provide
3 26 that the DNR or the attorney general may enforce subchapters
3 27 II and III of Code chapter 459 using the same administrative
3 28 and judicial enforcement procedures and remedies as provided
3 29 in Code chapter 455B.

3 30 Code section 459.602 provides for civil penalties that may
3 31 be assessed for violations of subchapter II and Code section
3 32 459.603 provides for civil penalties that may be assessed for
3 33 violations of subchapter III. Code section 459.602 provides
3 34 that a violator is subject to Code section 455B.109, which
3 35 provides for administrative assessment of civil penalties of
4 1 up to \$10,000, while Code section 459.603 provides that a
4 2 violator is subject to Code section 455B.191, which provides
4 3 for a civil penalty of \$5,000, and court-imposed penalties.
4 4 The bill provides that for a violation of subchapter II, the
4 5 penalties of Code chapter 455B, division II, and Code section
4 6 455B.109 apply. The bill provides that for a violation of
4 7 subchapter III, the penalties of Code chapter 455B, division
4 8 III, and Code section 455B.109 apply.