

MAR 8 2006  
Place On Calendar

HOUSE FILE 2703  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 247)

(SUCCESSOR TO HF 701)

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

**A BILL FOR**

1 An Act relating to animal feeding operations, by providing for  
2 complaints.

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

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HF 2703

1 Section 1. NEW SECTION. 459.511 COMPLAINTS.

2 1. As used in this section, "enforcement authority" means  
3 the department or a county.

4 2. If a person filing a complaint with an enforcement  
5 authority alleging a violation of this chapter has filed three  
6 or more complaints in the preceding two-year period with that  
7 enforcing authority that did not contain an allegation that  
8 constituted a violation, the department or county shall  
9 refrain from conducting an investigation until the person  
10 files a form of financial responsibility in the form of cash  
11 or approved sureties to pay all of the following:

12 a. Administrative costs incurred by the enforcement  
13 authority relating to conducting an investigation.

14 b. Costs incurred by the owner of the animal feeding  
15 operation which is being investigated or damages to the owner  
16 of the animal feeding operation proximately caused by the  
17 enforcement authority's investigation.

18 3. If after an investigation the enforcement authority  
19 determines that the complaint contains an allegation that  
20 constitutes a violation, the enforcement authority shall  
21 return the form of financial responsibility to the person or  
22 cancel it. However, if the enforcement authority determines  
23 that the complaint does not contain an allegation that  
24 constitutes a violation, the enforcement authority shall  
25 redeem and use the form of financial responsibility to pay for  
26 costs as provided in this section, and return any remaining  
27 amount to the person.

28 EXPLANATION

29 This bill amends a provision in Code chapter 459, the  
30 "Animal Agriculture Compliance Act". The bill amends  
31 subchapter V, relating to enforcement, by creating a new  
32 section which provides for complaints to the department of  
33 natural resources or a county (an "enforcement authority").

34 The bill provides that if in a two-year period a person  
35 files three or more complaints with an enforcement authority

1 alleging a violation of Code chapter 459 that does not contain  
2 an allegation that constitutes a violation, the enforcement  
3 authority must refrain from conducting an investigation until  
4 the person files a form of financial responsibility in the  
5 form of cash or approved sureties to pay for administrative  
6 costs incurred by the enforcement authority relating to  
7 conducting an investigation, or costs incurred by the owner of  
8 the animal feeding operation which is being investigated or  
9 damages to the owner of the animal feeding operation  
10 proximately caused by the enforcement authority's  
11 investigation.

12 The bill provides that if after an investigation the  
13 enforcement authority determines that the complaint contains  
14 an allegation that constitutes a violation, the enforcement  
15 authority must return the form of financial authority to the  
16 person or cancel it. However, if the enforcement authority  
17 determines that the complaint does not contain an allegation  
18 that constitutes a violation, the enforcement authority must  
19 redeem and use the form of financial authority to pay for the  
20 costs.

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HOUSE FILE 2703

H-8231

1 Amend House File 2703 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Section 1. NEW SECTION. 459.203A SWINE  
5 FARROWING AND GESTATING OPERATIONS -- SPECIAL  
6 BIOSECURITY SEPARATION DISTANCES.

7 1. A county board of supervisors may adopt a swine  
8 biosecurity ordinance requiring a separation distance  
9 in feet between an animal feeding operation  
10 maintaining swine and a structure which houses more  
11 than twenty-five animal units and is part of a swine  
12 farrowing and gestating operation located in the  
13 county. If the animal feeding operation or the  
14 structure is located in a different county, the joint  
15 boards of supervisors of the different counties may  
16 adopt the biosecurity ordinance. On the effective  
17 date of the ordinance requiring a separation distance,  
18 except as provided in subsection 2 and section  
19 459.205, the animal feeding operation shall not be  
20 established or expanded within that separation  
21 distance.

22 2. a. An animal feeding operation established or  
23 expanded prior to the date that a separation distance  
24 became effective as provided in a biosecurity  
25 ordinance and which does not comply with the  
26 separation distance may continue to operate regardless  
27 of the separation distance requirement.

28 b. An animal feeding operation may be expanded  
29 within a separation distance required in a biosecurity  
30 ordinance if the expansion is in accordance with the  
31 terms and conditions of a variance granted by the  
32 county board of supervisors which adopted the  
33 biosecurity ordinance.

34 Sec. 2. Section 459.205, subsection 3, Code 2005,  
35 is amended to read as follows:

36 3. a. A confinement feeding operation structure  
37 which is constructed or expanded within any distance  
38 from ~~a~~ any of the following:

39 (1) A residence, educational institution,  
40 commercial enterprise, or bona fide religious  
41 institution, ~~city, or public use area,~~ if the  
42 residence, educational institution, commercial  
43 enterprise, or bona fide religious institution was  
44 constructed or expanded, ~~or the boundaries of the city~~  
45 ~~or public use area were expanded,~~ after the date that  
46 the confinement feeding operation was established.

47 (2) A city or public use area, if the boundaries  
48 of the city or public use area were expanded after the  
49 date that the confinement feeding operation was  
50 established.

H-8231

1 (3) A swine farrowing and gestating operation, if  
2 the swine farrowing and gestating operation was  
3 constructed or expanded after the date that the  
4 confinement feeding operation was established.

5 b. The date the confinement feeding operation was  
6 established is the date on which the confinement  
7 feeding operation commenced operating. A change in  
8 ownership or expansion of the confinement feeding  
9 operation shall not change the established date of  
10 operation.

11 Sec. 3. Section 459.303, subsection 1, unnumbered  
12 paragraph 1, Code 2005, is amended to read as follows:

13 The department shall approve or disapprove  
14 applications for permits for the construction,  
15 including the expansion, of confinement feeding  
16 operation structures, as provided by rules adopted  
17 pursuant to this chapter. ~~The department's decision~~  
18 ~~to~~ department shall approve or disapprove a permit for  
19 the construction of a confinement feeding operation  
20 structure ~~shall be~~ based on whether the application is  
21 submitted according to procedures required by the  
22 department and the application meets the requirements  
23 of this chapter, including standards established by  
24 the department and separation distance requirements  
25 for the construction and expansion of confinement  
26 feeding operation structures. A person shall not  
27 begin construction of a confinement feeding operation  
28 structure requiring a permit under this section,  
29 unless the department first approves the person's  
30 application and issues to the person a construction  
31 permit. The department shall provide conditions for  
32 requiring when a person must obtain a construction  
33 permit."

34 2. Page 1, by inserting after line 27 the  
35 following:

36 "Sec. \_\_\_\_ . EFFECTIVE DATE. This Act, being deemed  
37 of immediate importance, takes effect upon enactment."

38 3. Title page, line 2, by inserting before the  
39 word "complaints" the following: "separation distance  
40 requirements and procedures for".

41 4. Title page, line 2, by inserting after the  
42 word "complaints" the following: ", and providing an  
43 effective date".

44 5. By renumbering as necessary.

By WHITAKER of Van Buren

Strayk  
Olson  
NettZ

HSB 247  
Agriculture

HOUSE FILE SF 02703

BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON DRAKE)

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

**A BILL FOR**

1 An Act relating to animal feeding operations, by providing for  
2 chronic complaints.

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

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1 Section 1. Section 459.601, subsection 1, Code 2005, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. A person shall be designated as a  
4 chronic complainant if the person files three or more  
5 complaints under this subsection with a county board of  
6 supervisors or the department, and the county board of  
7 supervisors or the department determines that each complaint  
8 does not contain an allegation that constitutes a violation of  
9 this chapter. If a chronic complainant files a subsequent  
10 complaint with the county board of supervisors or the  
11 department under this subsection, and the county board of  
12 supervisors or the department determines that the complaint  
13 does not contain an allegation that constitutes a violation,  
14 the chronic complainant shall be liable to all of the  
15 following persons for the designated costs:

16 (1) The county or department for administrative costs  
17 incurred by the county or the department relating to its  
18 investigation of the allegation.

19 (2) The owner of the animal feeding operation for costs  
20 incurred or damages proximately caused by an investigation of  
21 the allegation.

22 EXPLANATION

23 This bill amends a provision in Code chapter 459, the  
24 "Animal Agriculture Compliance Act". The bill amends Code  
25 section 459.601, which provides that a person may file a  
26 complaint alleging that an animal feeding operation is in  
27 violation of the Code chapter. The person may file the  
28 complaint with the county board of supervisors where the  
29 alleged violation occurs or the department of natural  
30 resources. If the county board of supervisors determines that  
31 the allegation constitutes a violation, the board must forward  
32 the complaint to the department for further investigation and  
33 possible enforcement.

34 The bill provides that a person is to be designated as a  
35 chronic complainant if the person files three or more

1 complaints with a county board of supervisors or the  
2 department, and the board or the department determines that  
3 the complaint does not contain an allegation that constitutes  
4 a violation of the Code chapter. Once a person is classified  
5 as a chronic complainant, the person's next complaint must  
6 contain an allegation that the board or department determines  
7 constitutes a violation or else the chronic complainant is  
8 liable to the county or department for the costs of the  
9 investigation and to the owner of the animal feeding operation  
10 for costs or damages arising from the investigation.

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