

House File 2324 - Introduced

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BY ZIRKELBACH

A BILL FOR

1 An Act relating to confinement feeding operations, by providing
2 for common ownership and management of the operations and
3 the application of manure originating from operations on
4 snow covered or frozen ground, and including effective date
5 provisions.

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

1 Section 1. Section 459.201, subsection 1, unnumbered
2 paragraph 1, Code 2009, is amended to read as follows:

3 Two or more animal feeding operations under common ownership
4 or management are deemed to be a single animal feeding
5 operation if they are adjacent or utilize a common system for
6 manure storage.

7 1A. For purposes of determining whether two or more
8 confinement feeding operations are adjacent, all of the
9 following must apply:

10 Sec. 2. Section 459.201, Code 2009, is amended by adding the
11 following new subsections:

12 NEW SUBSECTION. 1B. *a.* For purposes of determining whether
13 two or more confinement feeding operations are under a person's
14 common ownership, the person must hold an interest in each of
15 the confinement feeding operations as any of the following:

16 (1) A sole proprietor.

17 (2) A joint tenant or tenant in common.

18 (3) A holder of a majority equity interest in a business
19 association as defined in section 202B.102, including but not
20 limited to as a shareholder, partner, member, or beneficiary.

21 *b.* An interest in the confinement feeding operation under
22 paragraph "a", subparagraph (2) or (3) which is held directly or
23 indirectly by the person's spouse or dependent child shall be
24 attributed to the person.

25 NEW SUBSECTION. 1C. For purposes of determining whether
26 two or more confinement feeding operations are under a person's
27 common management, the person must have significant control
28 of the management of the day-to-day operations of each of
29 the confinement feeding operations. Common management does
30 not include control over a contract livestock facility by a
31 contractor, as defined in section 202.1.

32 Sec. 3. Section 459.301, subsection 1, unnumbered paragraph
33 1, Code Supplement 2009, is amended to read as follows:

34 Two or more animal feeding operations under common ownership
35 or management are deemed to be a single animal feeding

1 operation if they are adjacent or utilize a common area or
2 system for manure disposal.

3 1A. ~~In addition, for~~ For purposes of determining whether two
4 or more confinement feeding operations are adjacent, all of the
5 following must apply:

6 Sec. 4. Section 459.301, Code Supplement 2009, is amended by
7 adding the following new subsections:

8 NEW SUBSECTION. 1B. *a.* For purposes of determining whether
9 two or more confinement feeding operations are under a person's
10 common ownership, the person must hold an interest in each of
11 the confinement feeding operations as any of the following:

12 (1) A sole proprietor.

13 (2) A joint tenant or tenant in common.

14 (3) A holder of a majority equity interest in a business
15 association as defined in section 202B.102, including but not
16 limited to as a shareholder, partner, member, or beneficiary.

17 *b.* An interest in the confinement feeding operation under
18 paragraph "a", subparagraph (2) or (3) which is held directly or
19 indirectly by the person's spouse or dependent child shall be
20 attributed to the person.

21 NEW SUBSECTION. 1C. For purposes of determining whether
22 two or more confinement feeding operations are under a person's
23 common management, the person must have significant control
24 of the management of the day-to-day operations of each of
25 the confinement feeding operations. Common management does
26 not include control over a contract livestock facility by a
27 contractor, as defined in section 202.1.

28 Sec. 5. Section 459.313A, Code Supplement 2009, is amended
29 by adding the following new subsection:

30 NEW SUBSECTION. 4. A confinement feeding operation
31 constructed before July 1, 2009, and not expanded after that
32 date is not required to construct or expand a manure storage
33 structure to comply with this section.

34 Sec. 6. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
35 immediate importance, takes effect upon enactment.

1 EXPLANATION

2 BACKGROUND. This bill amends Code chapter 459, the
3 animal agriculture compliance Act (Code section 459.101),
4 and specifically subchapter II regulating air quality and
5 subchapter III regulating water quality regulations.

6 COMMON OWNERSHIP AND MANAGEMENT. Under both subchapters,
7 the scope of regulation may depend upon the size of the
8 confinement feeding operation, which applies to different
9 separation distance requirements (Code section 459.202) and
10 permit requirements (Code section 459.303). Two or more
11 confinement feeding operations under common ownership or
12 management may be deemed to be a single confinement feeding
13 operation if they are adjacent or either utilize a common
14 system for manure storage (Code section 459.201) or a common
15 area or system for manure disposal (Code section 459.301).

16 The bill provides that a person is a common owner when
17 holding an interest in each of the confinement feeding
18 operations as a sole proprietor, joint or common tenant, or
19 holder of an equity interest. An interest held by a spouse
20 or dependent child is attributable to the person. A person
21 is a common manager when exercising significant control of
22 the management over the day-to-day operations of each of the
23 confinement feeding operations (but does not include control
24 over contract livestock facilities). The bill's provisions
25 are similar to those in Code chapter 459A regulating open
26 feedlot operations (Code section 459A.103) and Code chapter
27 459B regulating dry bedded confinement feeding operations (Code
28 section 459B.103).

29 APPLICATION OF MANURE ON SNOW COVERED GROUND AND FROZEN
30 GROUND. The bill amends Code section 459.313A which generally
31 prohibits a person from applying manure originating from a
32 confinement feeding operation on snow covered ground or frozen
33 ground, but does provide an exception if there is an emergency
34 and the manure is applied on land and according to procedures
35 to reduce risks associated with water pollution. This bill

1 provides that a confinement feeding operation constructed
2 before July 1, 2009, and not expanded after that date is not
3 required to construct or expand a manure storage structure in
4 order to comply with the prohibition, so long as it is not
5 expanded after that date.

6 PENALTIES. A person who violates air quality restrictions
7 is subject to a civil penalty as provided in Code section
8 455B.109, which authorizes the environmental protection
9 commission to establish civil penalty amounts according to
10 a schedule not to exceed \$10,000 (Code section 459.602). A
11 person who violates water quality restrictions is subject
12 to civil penalties as provided in Code section 455B.109 or
13 455B.191 which include a judicially assessed civil penalty
14 of up to \$5,000 per each day of the violation (Code section
15 459.603). Moneys collected from civil penalties are deposited
16 into the animal agriculture compliance fund (Code section
17 459.401).

18 EFFECTIVE DATE. The bill takes effect upon enactment.