

# House File 3

HOUSE FILE \_\_\_\_\_  
BY SMITH

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

## A BILL FOR

1 An Act relating to confinement feeding operations by providing  
2 for the approval by counties of construction of structures  
3 associated with the operations.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1174HH 83  
6 da/rj/8

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1 1 Section 1. Section 331.304A, Code 2009, is amended to read  
1 2 as follows:  
1 3 331.304A LIMITATIONS ON COUNTY LEGISLATION == CONFINEMENT  
1 4 FEEDING OPERATION SITING ORDINANCES.

1 5 1. As used in this section:

1 6 a. "Aerobic structure", "animal", "animal feeding  
1 7 operation", "animal feeding operation structure", ~~and~~  
1 8 "confinement feeding operation", "confinement feeding  
1 9 operation structure", "manure", and "small animal feeding  
1 10 operation" mean the same as defined in section 459.102.

1 11 b. "County legislation" means any ordinance, motion,  
1 12 resolution, or amendment adopted by a county pursuant to  
1 13 section 331.302.

1 14 2. ~~a.~~ Except as provided in paragraph "b", a county  
1 15 shall not adopt or enforce county legislation regulating a  
1 16 condition or activity occurring on land used for the  
1 17 production, care, feeding, or housing of animals unless the  
1 18 regulation of the production, care, feeding, or housing of  
1 19 animals is expressly authorized by state law. County  
1 20 legislation adopted in violation of this section is void and  
1 21 unenforceable and any enforcement activity conducted in  
1 22 violation of this section is void. A condition or activity  
1 23 occurring on land used for the production, care, feeding, or  
1 24 housing of animals includes but is not limited to the  
1 25 construction, operation, or management of an animal feeding  
1 26 operation, an animal feeding operation structure, or aerobic  
1 27 structure, and to the storage, handling, or application of  
1 28 manure or egg washwater.

1 29 b. (1) A county may adopt a confinement feeding  
1 30 operations siting ordinance pursuant to section 331.302. The  
1 31 purpose of the ordinance shall be to designate areas for the  
1 32 construction of confinement feeding operation structures  
1 33 regardless of whether the county has adopted an ordinance  
1 34 under chapter 335 or has filed a county construction  
1 35 evaluation resolution with the department of natural resources  
2 1 pursuant to section 459.304.

2 2 (2) The county shall adopt or amend a confinement feeding  
2 3 operations siting ordinance only after considering the  
2 4 recommendation of a confinement feeding operations siting  
2 5 commission which shall be established by a county adopting or  
2 6 amending an ordinance. The board shall appoint five persons  
2 7 as members of the commission. Four members shall not reside  
2 8 in a city and one member shall reside in a city. At least  
2 9 three of the members shall be persons who are or were actively  
2 10 engaged in animal agriculture.

2 11 (3) The ordinance shall apply to the siting of confinement  
2 12 feeding operation structures that are part of confinement  
2 13 feeding operations in which swine are kept. However, the  
2 14 ordinance shall not apply to a small animal feeding operation.  
2 15 The designation of sites for construction shall be based on  
2 16 criteria required in order to preserve and protect natural  
2 17 resources, including water sources and fragile environmental  
2 18 locations; lessen congestion and overcrowding of confinement  
2 19 feeding operations, especially near cities; and protect the

2 20 health and welfare of the public.

2 21 Sec. 2. Section 335.2, Code 2009, is amended to read as  
2 22 follows:

2 23 335.2 ~~FARMS AGRICULTURAL PURPOSES EXEMPT.~~

2 24 Except to the extent required to implement as provided in

2 25 this section 335.27, no, an ordinance adopted under this

2 26 chapter applies shall not apply to an agricultural operation

2 27 including but not limited to land, farm houses, farm barns,

2 28 farm outbuildings or other buildings or structures which are

2 29 primarily adapted, by reason of nature and area, for use for

2 30 an agricultural purposes purpose, while so used. However, the

2 31 ordinances an ordinance adopted under this chapter may apply

2 32 to any of the following:

2 33 1. The implementation of an agricultural land preservation

2 34 ordinance as provided in section 335.27.

2 35 2. The implementation of a confinement feeding operations

3 1 siting ordinance as provided in section 331.304A.

3 2 3. A structure, building, dam, obstruction, deposit, or

3 3 excavation in or on the flood plains of any a river or stream.

3 4 Sec. 3. Section 459.303, subsection 1, unnumbered

3 5 paragraph 1, Code 2009, is amended to read as follows:

3 6 The department shall approve or disapprove applications for

3 7 permits for the construction, including the expansion, of

3 8 confinement feeding operation structures, as provided by rules

3 9 adopted pursuant to this chapter. The department's decision

3 10 to approve or disapprove a permit for the construction of a

3 11 confinement feeding operation structure shall be based on

3 12 whether the application is submitted according to procedures

3 13 required by the department and the application meets standards

3 14 established by the department. The department shall not

3 15 approve an application for the construction of a confinement

3 16 feeding operation structure if the construction would be in

3 17 violation of a confinement feeding operations siting ordinance

3 18 adopted pursuant to section 331.304A that is filed with the

3 19 department pursuant to section 459.304. A person shall not

3 20 begin construction of a confinement feeding operation

3 21 structure requiring a permit under this section, unless the

3 22 department first approves the person's application and issues

3 23 to the person a construction permit. The department shall

3 24 provide conditions for requiring when a person must obtain a

3 25 construction permit.

3 26 Sec. 4. Section 459.304, subsection 2, paragraph b, Code

3 27 2009, is amended by adding the following new subparagraph:

3 28 NEW SUBPARAGRAPH. (5) Whether the construction of a

3 29 proposed confinement feeding operation structure violates a

3 30 confinement feeding operations siting ordinance adopted by the

3 31 county board of supervisors pursuant to section 331.304A.

3 32 Sec. 5. Section 459.304, Code 2009, is amended by adding

3 33 the following new subsection:

3 34 NEW SUBSECTION. 2A. A county board of supervisors that

3 35 has adopted a confinement feeding operations siting ordinance

4 1 pursuant to section 331.304A shall file the most current

4 2 version of the ordinance with the department according to

4 3 procedures required by the department.

4 4

4 5 EXPLANATION

4 6 This bill enacts and amends several provisions relating to

4 7 confinement feeding operations regulated by the department of

4 8 natural resources.

4 9 The bill amends Code sections 331.304A and 335.2, which

4 10 prohibit a county board of supervisors from adopting zoning

4 11 and other types of ordinances that restrict where a

4 12 confinement feeding operation structure may be constructed.

4 13 These structures include confinement buildings (buildings that

4 14 are totally roofed) and manure storage facilities. The bill

4 15 authorizes a county board of supervisors to adopt such an

4 16 ordinance regardless of whether it has adopted county zoning.

4 17 The ordinance is referred to as a confinement feeding

4 18 operations siting ordinance. It applies to confinement

4 19 feeding operations in which swine are kept. It does not apply

4 20 to small animal feeding operations. The bill provides that a

4 21 county board of supervisors can only adopt such an ordinance

4 22 after reviewing recommendations made to it by a special

4 23 commission.

4 24 The bill also amends Code section 459.303, which requires

4 25 the department to issue permits for the construction of

4 26 confinement feeding operation structures. The bill provides

4 27 that the department must disapprove an application for a

4 28 permit to construct a structure if it would violate a

4 29 confinement feeding operations siting ordinance. The bill

4 30 amends Code section 459.304 by requiring the county to file  
its current ordinance with the department, and providing that

4 31 the county may submit comments to the department informing the  
4 32 department that the application is in violation of the  
4 33 county's ordinance.  
4 34 LSB 1174HH 83  
4 35 da/rj/8