

# House File 327 - Introduced

HOUSE FILE \_\_\_\_\_  
BY BAILEY

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

## A BILL FOR

1 An Act providing for the stockpiling of dry manure originating  
2 from confinement feeding operations, making penalties  
3 applicable, and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1803YH 83  
6 da/nh/14

PAG LIN

1 1 Section 1. Section 459.102, Code 2009, is amended by  
1 2 adding the following new subsections:  
1 3 NEW SUBSECTION. 20A. "Designated area" means a known  
1 4 sinkhole, a cistern, an abandoned well, an unplugged  
1 5 agricultural drainage well, an agricultural drainage well  
1 6 surface inlet, a drinking water well, a designated wetland, or  
1 7 a water source. However, "designated area" does not include a  
1 8 terrace tile inlet or a surface tile inlet other than an  
1 9 agricultural drainage well surface tile inlet.  
1 10 NEW SUBSECTION. 23A. "Dry manure" means manure which  
1 11 meets all of the following conditions:  
1 12 a. The manure does not flow perceptibly under pressure.  
1 13 b. The manure is not capable of being transported through  
1 14 a mechanical pumping device designed to move a liquid.  
1 15 c. The constituent molecules of the manure do not flow  
1 16 freely among themselves but may show a tendency to separate  
1 17 under stress.  
1 18 NEW SUBSECTION. 32A. "Long-term stockpile location" means  
1 19 an area where a person stockpiles manure for more than six  
1 20 months in any two-year period.  
1 21 NEW SUBSECTION. 41A. "Qualified stockpile cover" means a  
1 22 barrier impermeable to precipitation that is used to protect a  
1 23 stockpile from precipitation.  
1 24 NEW SUBSECTION. 41B. "Qualified stockpile structure"  
1 25 means any of the following:  
1 26 1. A building.  
1 27 2. A roofed structure other than a building that is all of  
1 28 the following:  
1 29 a. Impermeable to precipitation.  
1 30 b. Constructed using wood, steel, aluminum, vinyl,  
1 31 plastic, or other similar materials.  
1 32 c. Constructed with walls or other means to prevent  
1 33 precipitation-induced surface runoff from contacting the  
1 34 stockpile.  
1 35 NEW SUBSECTION. 45A. "Stockpile" means dry manure  
2 1 originating from a confinement feeding operation that is  
2 2 stored at a particular location outside a manure storage  
2 3 structure.  
2 4 NEW SUBSECTION. 45B. "Stockpile dry manure" means to  
2 5 create or add to a stockpile.  
2 6 Sec. 2. NEW SECTION. 459.204A STOCKPILING DRY MANURE.  
2 7 A person may stockpile dry manure so long as the person  
2 8 stockpiles the dry manure in compliance with restrictions  
2 9 applicable to stockpiling as provided in this subchapter and  
2 10 subchapter III.  
2 11 Sec. 3. NEW SECTION. 459.204B STOCKPILING DRY MANURE ==  
2 12 MINIMUM SEPARATION DISTANCE REQUIREMENTS.  
2 13 Except as provided in section 459.205, a person shall not  
2 14 stockpile dry manure within one thousand two hundred fifty  
2 15 feet from a residence not owned by the titleholder of the  
2 16 land, a commercial enterprise, a bona fide religious  
2 17 institution, an educational institution, or a public use area.  
2 18 Sec. 4. Section 459.205, Code 2009, is amended by adding  
2 19 the following new subsection:

2 20 NEW SUBSECTION. 4A. The stockpiling of dry manure within  
2 21 a separation distance required between a stockpile and an  
2 22 object or location for which separation is required under  
2 23 section 459.204B if any of the following apply:  
2 24 a. The titleholder of the land benefiting from the  
2 25 separation distance requirement executes a written waiver with  
2 26 the titleholder of the land where the stockpile is located.  
2 27 b. The stockpile consists of dry manure originating from a  
2 28 small animal feeding operation.  
2 29 c. The stockpile consists of dry manure originating from a  
2 30 confinement feeding operation that was constructed before  
2 31 January 1, 2006, unless the confinement feeding operation is  
2 32 expanded after that date.  
2 33 Sec. 5. Section 459.206, subsection 2, paragraph b, Code  
2 34 2009, is amended to read as follows:  
2 35 b. A qualified confinement feeding operation that stores  
3 1 ~~dry manure on a dry matter basis.~~  
3 2 Sec. 6. Section 459.301, Code 2009, is amended by adding  
3 3 the following new subsection:  
3 4 NEW SUBSECTION. 6. Dry manure that is stockpiled within a  
3 5 distance of one thousand two hundred fifty feet from another  
3 6 stockpile shall be considered part of the same stockpile.  
3 7 Sec. 7. Section 459.307, subsection 1, paragraph b, Code  
3 8 2009, is amended to read as follows:  
3 9 b. Whether the manure storage structure stores only dry  
3 10 ~~manure in an exclusively dry form.~~  
3 11 Sec. 8. Section 459.311, subsection 1, Code 2009, is  
3 12 amended to read as follows:  
3 13 1. A confinement feeding operation shall retain all manure  
3 14 produced by the operation between periods of manure disposal.  
3 15 For purposes of this section, dry manure may be retained by  
3 16 stockpiling as provided in this subchapter. A confinement  
3 17 feeding operation shall not discharge manure directly into  
3 18 water of the state or into a tile line that discharges  
3 19 directly into water of the state.  
3 20 Sec. 9. NEW SECTION. 459.311A STOCKPILING DRY MANURE.  
3 21 A person may stockpile dry manure so long as the person  
3 22 stockpiles the dry manure in compliance with restrictions  
3 23 applicable to stockpiling as provided in this subchapter and  
3 24 subchapter II.  
3 25 Sec. 10. NEW SECTION. 459.311B STOCKPILING DRY MANURE ==  
3 26 MINIMUM SEPARATION DISTANCE REQUIREMENTS AND PROHIBITIONS.  
3 27 1. A person shall not stockpile dry manure within the  
3 28 following distances from any of the following:  
3 29 a. A terrace tile inlet or surface tile inlet, two hundred  
3 30 feet. However, this paragraph does not apply to a person who  
3 31 stockpiles the dry manure in a manner that does not allow  
3 32 precipitation-induced runoff to drain from the stockpile to  
3 33 the terrace tile inlet or surface tile inlet. A terrace tile  
3 34 inlet or surface tile inlet does not include a tile inlet that  
3 35 is not directly connected to a tile line that discharges  
4 1 directly into a water of the state.  
4 2 b. (1) A designated area, four hundred feet. However, an  
4 3 increased separation distance of eight hundred feet shall  
4 4 apply to all of the following:  
4 5 (a) A high-quality water resource.  
4 6 (b) An agricultural drainage well.  
4 7 (c) A known sinkhole.  
4 8 (2) Subparagraph (1) does not apply to a person who  
4 9 stockpiles dry manure in a manner that does not allow  
4 10 precipitation-induced runoff to drain from the stockpile to  
4 11 the designated area.  
4 12 2. A person shall not stockpile dry manure in a grassed  
4 13 waterway.  
4 14 3. A person shall not stockpile dry manure on land having  
4 15 a slope of more than three percent. However, this subsection  
4 16 shall not apply to a person who stockpiles dry manure using  
4 17 methods, structures, or practices that contain the stockpile,  
4 18 including but not limited to silt fences, temporary earthen  
4 19 berms, or other effective measures, and that prevent or  
4 20 diminish precipitation-induced runoff from the stockpile.  
4 21 Sec. 11. NEW SECTION. 459.311C STOCKPILING DRY MANURE ON  
4 22 TERRAIN OTHER THAN KARST TERRAIN.  
4 23 A person stockpiling dry manure on terrain, other than  
4 24 karst terrain, for more than fifteen consecutive days shall  
4 25 comply with any of the following:  
4 26 1. Stockpile dry manure using any of the following:  
4 27 a. A qualified stockpile structure.  
4 28 b. A qualified stockpile cover. However, the person shall  
4 29 not stockpile dry manure using a qualified stockpile cover at  
4 30 a long-term stockpile location unless the person stockpiles

4 31 the dry manure on compacted soil, compacted granular  
4 32 aggregates, asphalt, concrete, or other similar materials.

4 33 2. Deliver a stockpile inspection statement to the  
4 34 department as follows:

4 35 a. The department must receive the statement by the  
5 1 fifteenth day of each month.

5 2 b. The stockpile inspection statement shall provide the  
5 3 location of the stockpile and document the results of an  
5 4 inspection conducted by the person during the previous month.

5 5 The inspection must evaluate whether precipitation-induced  
5 6 runoff is draining away from the stockpile and, if so,  
5 7 describe actions taken to prevent the runoff. If an

5 8 inspection by the department documents that  
5 9 precipitation-induced runoff is draining away from a  
5 10 stockpile, the person shall immediately remove dry manure from  
5 11 the stockpile in compliance with this chapter or comply with  
5 12 all directives of the department to prevent the runoff.

5 13 c. The stockpile inspection statement must be in writing  
5 14 and may be on a form prescribed by the department.

5 15 Sec. 12. NEW SECTION. 459.311D STOCKPILING DRY MANURE ON  
5 16 KARST TERRAIN.

5 17 A person stockpiling dry manure on karst terrain shall  
5 18 comply with all of the following:

5 19 1. The person shall stockpile the dry manure at a location  
5 20 where there is a vertical separation distance of at least five  
5 21 feet between the bottom of the stockpile and the underlying  
5 22 limestone, dolomite, or other soluble rock.

5 23 2. A person who stockpiles dry manure for more than  
5 24 fifteen consecutive days shall use any of the following:

5 25 a. A qualified stockpile structure.

5 26 b. A qualified stockpile cover. However, the person shall  
5 27 not stockpile dry manure using a qualified stockpile cover at  
5 28 a long-term stockpile location unless the stockpile is located  
5 29 on reinforced concrete at least five inches thick.

5 30 Sec. 13. NEW SECTION. 459.311E STOCKPILING == REQUIRED  
5 31 PRACTICES.

5 32 1. A person stockpiling dry manure shall comply with  
5 33 applicable requirements of the national pollutant discharge  
5 34 elimination system pursuant to the federal Water Pollution  
5 35 Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts.  
6 1 122 and 412.

6 2 2. A person stockpiling dry manure shall remove the dry  
6 3 manure and apply it in accordance with the provisions of this  
6 4 chapter, including but not limited to section 459.311, within  
6 5 six months after the dry manure is first stockpiled.

6 6 Sec. 14. Section 459.314, unnumbered paragraph 1, Code  
6 7 2009, is amended by striking the unnumbered paragraph.

6 8 Sec. 15. NEW SECTION. 459.319 STOCKPILING == EXCEPTION  
6 9 FROM REGULATION.

6 10 1. This subchapter shall not apply to a person who  
6 11 stockpiles dry manure if the stockpile's dry manure originates  
6 12 from a confinement feeding operation that was constructed  
6 13 prior to January 1, 2006, unless the confinement feeding  
6 14 operation is expanded after that date.

6 15 2. Subsection 1 does not apply to any of the following:

6 16 a. A person who stockpiles dry manure in violation of  
6 17 section 459.311.

6 18 b. A stockpile where precipitation-induced runoff has  
6 19 drained away.

6 20 Sec. 16. EFFECTIVE DATE. This Act, being deemed of  
6 21 immediate importance, takes effect upon enactment.

6 22 EXPLANATION

6 23 STOCKPILES. Currently, Code chapter 459 provides for  
6 24 regulation of confinement feeding operations by the department  
6 25 of natural resources, including manure storage in a structure.  
6 26 This bill regulates the storing of dry manure outside a manure  
6 27 storage structure, referred to as a stockpile (for the  
6 28 stockpile of manure solids from an open feedlot, see Code  
6 29 section 459A.403).

6 30 AIR QUALITY REQUIREMENTS == SEPARATION DISTANCES. Code  
6 31 chapter 459, subchapter II, regulates air quality. The bill  
6 32 provides that a person may stockpile dry manure so long as it  
6 33 is in compliance with the restrictions applicable to  
6 34 stockpiling. The subchapter provides separation distance  
6 35 requirements benefiting certain objects or locations,  
7 1 including a residence, commercial enterprise, bona fide  
7 2 religious institution, educational institution, or public use  
7 3 area, from a confinement feeding operation structure or the  
7 4 application of manure originating from such structure (Code  
7 5 sections 459.202 and 459.204). The bill provides that a  
7 6 stockpile cannot be located within specified separation

7 7 distances from these same benefited objects or locations.  
7 8 There are several exceptions, based on the execution of a  
7 9 waiver by the parties, whether the manure originated from a  
7 10 small animal feeding operation, or the date that the  
7 11 confinement feeding operation was constructed.

7 12 WATER QUALITY REQUIREMENTS. Code chapter 459, division  
7 13 III, regulates water quality. The bill provides that a person  
7 14 may stockpile manure so long as it is in compliance with the  
7 15 restrictions applicable to stockpiling. Code section 459.311  
7 16 requires that a confinement feeding operation retain all  
7 17 manure produced by the operation between periods of manure  
7 18 disposal, usually by application. The bill provides that  
7 19 stockpiling dry manure satisfies this requirement so long as  
7 20 it complies with the provisions of the bill.

7 21 1. Separation Distance Requirements. The bill provides  
7 22 separation distance requirements between a stockpile and a  
7 23 designated area which includes a known sinkhole, a cistern, an  
7 24 abandoned well, an unplugged agricultural drainage well, an  
7 25 agricultural drainage well surface inlet, a drinking water  
7 26 well, a designated wetland, or a water source (see Code  
7 27 section 459.314). The bill provides that a designated area  
7 28 does not include a surface tile inlet, other than an  
7 29 agricultural drainage well surface tile inlet, which is  
7 30 consistent with Code chapter 459A governing open feedlot  
7 31 operations. Special separation distance requirements are  
7 32 provided for a high-quality water resource as provided by  
7 33 rules adopted by the department, and for an agricultural  
7 34 drainage well or known sinkhole. The bill provides special  
7 35 separation distance requirements between a stockpile and a  
8 1 terrace tile inlet or surface tile inlet. An exception allows  
8 2 a stockpile to be located closer than otherwise required from  
8 3 these water sources so long as it is maintained in a manner  
8 4 that will not allow precipitation-induced runoff to drain from  
8 5 the dry manure.

8 6 2. Certain Locations Limited. The bill provides that a  
8 7 stockpile cannot be located in a grassed waterway. It also  
8 8 cannot be located on a slope of a certain grade, unless  
8 9 efforts are taken to contain the stockpile and prevent runoff.

8 10 3. Stockpile Locations. If the dry manure is not  
8 11 stockpiled on karst terrain, no requirements apply so long as  
8 12 the dry manure is stockpiled for 15 days or less. Otherwise,  
8 13 a person must comply with stockpiling requirements or file a  
8 14 monthly inspection report with the department. The special  
8 15 stockpiling requirements include either the use of a structure  
8 16 (e.g., a building) or the use of an impermeable cover.  
8 17 However, if the stockpile is covered on a long-term basis, it  
8 18 must be sited on compacted or other prepared ground. If the  
8 19 dry manure is stockpiled on karst terrain, there must be a  
8 20 separation distance between the bottom of the stockpile and  
8 21 the soluble rock, regardless of how long the stockpile is  
8 22 located there. For dry manure that is stockpiled for more  
8 23 than 15 days, special compliance requirements apply, including  
8 24 either the use of a structure or an impermeable cover. If the  
8 25 stockpile is located there on a long-term basis, it must be  
8 26 sited on concrete. There is no option for filing an  
8 27 inspection statement.

8 28 4. Exception. The bill provides that stockpiling or a  
8 29 stockpile location is not subject to regulation if the dry  
8 30 manure originates from a confinement feeding operation  
8 31 constructed prior to January 1, 2006, unless the operation  
8 32 expanded after that date or the department determines that  
8 33 precipitation-induced runoff has drained away from the  
8 34 stockpile.

8 35 PENALTIES APPLICABLE. Code chapter 459 includes penalty  
9 1 provisions. Code section 459.602 provides that a person  
9 2 violating the Code chapter's air quality regulations is  
9 3 subject to judicial action brought by the attorney general  
9 4 under Code section 455B.191. Under that Code section, the  
9 5 general civil penalty applicable for a violation cannot exceed  
9 6 \$5,000. Code section 459.603 provides that a person violating  
9 7 the Code chapter's water quality regulations is subject to the  
9 8 same judicial action brought under Code section 455B.191, but  
9 9 also allows the department to impose a range of civil  
9 10 penalties based on a number of criteria under Code section  
9 11 455B.109, not to exceed \$10,000. All civil penalties are  
9 12 deposited in the animal agriculture compliance fund created in  
9 13 Code section 459.401.

9 14 EFFECTIVE DATE. The bill takes effect upon enactment.

9 15 LSB 1803YH 83

9 16 da/nh/14