

House File 574 - Introduced

HOUSE FILE _____
BY MAREK and MERTZ

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

A BILL FOR

1 An Act regulating animal feeding operations, making penalties
2 applicable, and providing for penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2393HT 83
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1 1 DIVISION I
1 2 APPLICATION OF LIQUID MANURE ON FROZEN
1 3 GROUND AND SNOW COVERED GROUND
1 4 Section 1. Section 459.102, Code 2009, is amended by
1 5 adding the following new subsections:
1 6 NEW SUBSECTION. 28A. "Frozen ground" means soil that is
1 7 impenetrable due to frozen soil moisture but does not include
1 8 soil that is only frozen to a depth of two inches or less.
1 9 NEW SUBSECTION. 44A. "Snow covered ground" means soil
1 10 covered by one inch or more of snow or soil covered by one
1 11 half inch or more of ice.
1 12 Sec. 2. NEW SECTION. 459.313A WHEN A PERSON MAY APPLY
1 13 MANURE ON LAND == FROZEN GROUND AND SNOW COVERED GROUND.
1 14 1. A person may apply liquid manure originating from a
1 15 confinement feeding operation on frozen ground or snow covered
1 16 ground except as provided in this section or except as
1 17 otherwise provided in this chapter. During the period
1 18 beginning on February 1 and ending on April 1, a person may
1 19 apply the liquid manure on frozen ground or snow covered
1 20 ground only if the need for the application becomes urgent.
1 21 The need for the application becomes urgent when there is an
1 22 immediate need to comply with section 459.311, subsection 1.
1 23 The immediate need must be caused by unforeseen circumstances
1 24 beyond the control of the owner or operator of the confinement
1 25 feeding operation, including but not limited to natural
1 26 disaster, unusual weather conditions, or equipment failure.
1 27 An owner or operator applying liquid manure pursuant to this
1 28 paragraph shall notify the department before beginning the
1 29 land application.
1 30 2. The authorization to apply liquid manure in subsection
1 31 1 does not apply to any of the following:
1 32 a. If the immediate need to comply with section 459.311,
1 33 subsection 1, is caused by the improper design or management
1 34 of a manure storage structure, including but not limited to a
1 35 failure to properly account for the volume of the manure to be
2 1 stored.
2 2 b. If the application of liquid manure consists of manure
2 3 originating from a small animal feeding operation.
2 4 c. If the liquid manure that is applied is injected into
2 5 the soil or incorporated within the soil on the same date.
2 6 Sec. 3. DEPARTMENTAL REPORT. The department of natural
2 7 resources shall prepare and submit a report to the general
2 8 assembly on or before July 1, 2010. The report shall provide
2 9 recommendations regarding all of the following:
2 10 1. The need for improved manure storage structures
2 11 associated with small animal feeding operations to improve
2 12 water quality.
2 13 2. The application of dry manure on frozen ground or snow
2 14 covered ground.
2 15 DIVISION II
2 16 DRY BEDDED CONFINEMENT FEEDING OPERATIONS
2 17 SUBCHAPTER I
2 18 GENERAL PROVISIONS
2 19 Sec. 4. NEW SECTION. 459B.101 TITLE.
2 20 This chapter shall be known and may be cited as the "Animal

2 21 Agriculture Compliance Act for Dry Bedded Confinement Feeding
2 22 Operations".

2 23 Sec. 5. NEW SECTION. 459B.102 DEFINITIONS.

2 24 As used in this chapter, unless the context otherwise
2 25 requires:

2 26 1. "Alluvial aquifer area" means an area underlaid by sand
2 27 or gravel aquifers situated beneath floodplains along stream
2 28 valleys and includes alluvial deposits associated with stream
2 29 terraces and benches, contiguous wind-blown sand deposits, and
2 30 glacial outwash deposits.

2 31 2. "Animal" means cattle or swine.

2 32 3. "Animal unit capacity" means the maximum number of
2 33 animal units which the owner or operator confines in a dry
2 34 bedded confinement feeding operation at any one time.

2 35 4. "Bedding" means crop, vegetation, or forage residue or
3 1 similar materials placed in a dry bedded confinement building
3 2 for the care of animals.

3 3 5. "Commercial enterprise" means the same as defined in
3 4 section 459.102.

3 5 6. "Confinement feeding operation" means the same as
3 6 defined in section 459.102.

3 7 7. "Department" means the department of natural resources.

3 8 8. "Designated area" means the same as defined in section
3 9 459A.102.

3 10 9. "Designated wetland" means the same as defined in
3 11 section 459.102.

3 12 10. "Dry bedded confinement feeding operation" means a
3 13 confinement feeding operation in which animals are confined to
3 14 areas which are totally roofed and in which all manure is
3 15 stored as dry bedded manure.

3 16 11. "Dry bedded confinement feeding operation structure"
3 17 means a dry bedded confinement feeding operation building or a
3 18 dry bedded manure storage structure.

3 19 12. "Dry bedded manure" means manure from animals that
3 20 meets all of the following requirements:

3 21 a. The manure does not flow perceptibly under pressure.

3 22 b. The manure is not capable of being transported through
3 23 a mechanical pumping device designed to move a liquid.

3 24 c. The manure contains bedding.

3 25 13. "Dry bedded manure confinement feeding operation
3 26 building" or "building" means a building used in conjunction
3 27 with a confinement feeding operation to house animals and in
3 28 which any manure from the animals is stored as dry bedded
3 29 manure.

3 30 14. "Dry bedded manure storage structure" means a covered
3 31 or uncovered structure, other than a building used to store
3 32 dry bedded manure originating from a confinement feeding
3 33 operation.

3 34 15. "Educational institution" means the same as defined in
3 35 section 459.102.

4 1 16. "Grassed waterway" means the same as defined in
4 2 section 459A.102.

4 3 17. "High-quality water resource" means the same as
4 4 defined in section 459.102.

4 5 18. "Karst terrain" means the same as defined in section
4 6 459.102.

4 7 19. "Major water source" means the same as defined in
4 8 section 459.102.

4 9 20. "Manure" means the same as defined in section 459.102.

4 10 21. "One hundred year floodplain" means the same as
4 11 defined in section 459.102.

4 12 22. "Public use area" means the same as defined in section
4 13 459.102.

4 14 23. "Stockpile" means to store dry bedded manure outside
4 15 of a dry bedded manure confinement feeding operation building
4 16 or a dry bedded manure storage structure.

4 17 24. "Water source" means the same as defined in section
4 18 459.102.

4 19 Sec. 6. NEW SECTION. 459B.103 SPECIAL TERMS.

4 20 For purposes of this chapter, all of the following shall
4 21 apply:

4 22 1. Two or more dry bedded confinement feeding operations
4 23 under common ownership or common management are deemed to be a
4 24 single dry bedded confinement feeding operation if they are
4 25 adjacent or utilize a common area or system for dry bedded
4 26 manure disposal.

4 27 2. For purposes of determining whether two or more dry
4 28 bedded confinement feeding operations are adjacent, all of the
4 29 following shall apply:

4 30 a. At least one dry bedded confinement feeding operation
4 31 structure must be constructed on or after March 21, 1996.

4 32 b. A dry bedded confinement feeding operation structure
4 33 which is part of one dry bedded confinement feeding operation
4 34 is separated by less than one thousand two hundred fifty feet
4 35 from a dry bedded confinement feeding operation structure
5 1 which is part of the other dry bedded confinement feeding
5 2 operation.

5 3 3. a. For purposes of determining whether two or more dry
5 4 bedded confinement feeding operations are under common
5 5 ownership, a person must hold an interest in each of the dry
5 6 bedded confinement feeding operations as any of the following:

5 7 (1) A sole proprietor.
5 8 (2) A joint tenant or tenant in common.
5 9 (3) A holder of a majority equity interest in a business
5 10 association as defined in section 202B.102, including but not
5 11 limited to as a shareholder, partner, member, or beneficiary.

5 12 b. An interest in the dry bedded confinement feeding
5 13 operation under paragraph "a", subparagraph (1) or (2) which
5 14 is held directly or indirectly by the person's spouse or
5 15 dependent child shall be attributed to the person.

5 16 4. For purposes of determining whether two or more dry
5 17 bedded confinement feeding operations are under common
5 18 management, a person must have significant control of the
5 19 management of the day-to-day operations of each of the dry
5 20 bedded confinement feeding operations. Common management does
5 21 not include control over a contract livestock facility by a
5 22 contractor, as defined in section 202.1.

5 23 5. In calculating the animal unit capacity of a dry bedded
5 24 confinement feeding operation, the animal unit capacity shall
5 25 include the animal unit capacity of all dry bedded confinement
5 26 feeding operation buildings that are used to house animals in
5 27 the dry bedded confinement feeding operation.

5 28 Sec. 7. NEW SECTION. 459B.104 GENERAL AUTHORITY ==
5 29 COMMISSION AND DEPARTMENT == PURPOSE == COMPLIANCE.

5 30 1. The environmental protection commission shall establish
5 31 by rule adopted pursuant to chapter 17A, requirements relating
5 32 to the construction, including expansion, or operation of dry
5 33 bedded confinement feeding operations, including related dry
5 34 bedded manure confinement feeding operation buildings and
5 35 stockpiles.

6 1 2. Any provision referring generally to compliance with
6 2 the requirements of this chapter as applied to dry bedded
6 3 confinement feeding operations also includes compliance with
6 4 requirements in rules adopted by the environmental protection
6 5 commission pursuant to this section, orders issued by the
6 6 department as authorized under this chapter, and the terms and
6 7 conditions applicable to manure management plans required
6 8 under this chapter.

6 9 3. The purpose of this chapter is to provide requirements
6 10 relating to the construction, including the expansion, and
6 11 operation of dry bedded confinement feeding operations, and
6 12 the control of dry bedded manure which shall be construed to
6 13 supplement applicable provisions of chapter 459. If there is
6 14 a conflict between the provisions of this chapter and chapter
6 15 459, the provisions of this chapter shall prevail.

6 16 SUBCHAPTER II

6 17 DRY BEDDED MANURE STRUCTURES ==

6 18 CONSTRUCTION REQUIREMENTS

6 19 Sec. 8. NEW SECTION. 459B.201 CONSTRUCTION DESIGN
6 20 STANDARDS.

6 21 A person constructing a dry bedded confinement feeding
6 22 operation structure on karst terrain or in an alluvial aquifer
6 23 area shall comply with all of the following:

6 24 1. The person must construct the dry bedded confinement
6 25 feeding operation structure at a location where there is a
6 26 vertical separation distance of at least five feet between the
6 27 bottom of the floor of the dry bedded confinement feeding
6 28 operation structure and the underlying limestone, dolomite, or
6 29 other soluble rock in karst terrain or the underlying sand and
6 30 gravel aquifer in an alluvial aquifer area.

6 31 2. The dry bedded confinement feeding operation structure
6 32 must have a floor consisting of reinforced concrete at least
6 33 five inches thick.

6 34 Sec. 9. NEW SECTION. 459B.202 DISTANCE REQUIREMENTS.

6 35 1. Except as provided in subsection 3, the following shall
7 1 apply:

7 2 a. A dry bedded confinement feeding operation structure
7 3 shall not be constructed closer than five hundred feet away
7 4 from the surface intake of an agricultural drainage well. A
7 5 dry bedded confinement feeding operation structure shall not
7 6 be constructed closer than one thousand feet from a wellhead,
7 7 cistern of an agricultural drainage well, or known sinkhole.

7 8 b. A dry bedded confinement feeding operation structure
7 9 shall not be constructed if the dry bedded confinement feeding
7 10 operation structure as constructed is closer than any of the
7 11 following:
7 12 (1) Two hundred feet away from a water source other than a
7 13 major water source.
7 14 (2) One thousand feet away from a major water source.
7 15 (3) Two thousand five hundred feet away from a designated
7 16 wetland.
7 17 c. (1) A water source, other than a major water source,
7 18 shall not be constructed, expanded, or diverted, if the water
7 19 source as constructed, expanded, or diverted is closer than
7 20 two hundred feet away from a dry bedded confinement feeding
7 21 operation structure.
7 22 (2) A major water source shall not be constructed,
7 23 expanded, or diverted, if the major water source as
7 24 constructed, expanded, or diverted is closer than one thousand
7 25 feet from a dry bedded confinement feeding operation
7 26 structure.
7 27 (3) A designated wetland shall not be established, if the
7 28 designated wetland is closer than two thousand five hundred
7 29 feet away from a dry bedded confinement feeding operation
7 30 structure.
7 31 2. A dry bedded confinement feeding operation structure
7 32 shall not be constructed on land that is part of a one hundred
7 33 year floodplain.
7 34 3. A separation distance required in subsection 1 shall
7 35 not apply to any of the following:

8 1 a. A location or object and a farm pond or privately owned

8 2 lake, as defined in section 462A.2.

8 3 b. A dry bedded confinement feeding operation structure

8 4 constructed with a secondary containment barrier. The

8 5 department shall adopt rules providing for the construction

8 6 and use of a secondary containment barrier.

8 7

8 8 SUBCHAPTER III

8 9 DRY BEDDED MANURE CONTROL

8 10 Sec. 10. NEW SECTION. 459B.301 STOCKPILING == AIR

8 11 QUALITY.

8 12 A person may stockpile dry bedded manure, subject to this

8 13 section.

8 14 1. Except as provided in subsection 2, a person shall not

8 15 stockpile dry bedded manure within one thousand two hundred

8 16 fifty feet from a residence not owned by the titleholder of

8 17 the land, a commercial enterprise, a bona fide religious

8 18 institution, an educational institution, or a public use area.

8 19 2. A person may stockpile dry bedded manure within a

8 20 separation distance required between the stockpiled dry bedded

8 21 manure and an object or location for which separation is

8 22 required under subsection 1, if any of the following apply:

8 23 a. The titleholder of the land benefiting from the

8 24 separation distance requirement executes a written waiver with

8 25 the titleholder of the land where the dry bedded manure is

8 26 stockpiled.

8 27 b. The stockpiled dry bedded manure originates from a

8 28 small animal feeding operation.

8 29 Sec. 11. NEW SECTION. 459B.302 STOCKPILING == WATER

8 30 QUALITY.

8 31 A person may stockpile dry bedded manure, subject to all of

8 32 the following:

8 33 1. a. The person shall not stockpile the dry bedded

8 34 manure within the following distances to a designated area

8 35 unless the dry manure is maintained in a manner that will not

9 1 allow precipitation-induced runoff to drain from the dry

9 2 bedded manure to the designated area:

9 3 (1) Four hundred feet from a designated area other than a

9 4 high-quality water resource.

9 5 (2) Eight hundred feet from a high-quality water resource.

9 6 b. The person shall not stockpile dry bedded manure within

9 7 two hundred feet from a terrace tile inlet or surface tile

9 8 inlet unless the dry bedded manure is maintained in a manner

9 9 that will not allow precipitation-induced runoff to drain from

9 10 the dry bedded manure to the terrace tile inlet or surface

9 11 tile inlet.

9 12 c. The person shall not stockpile dry bedded manure in a

9 13 grassed waterway, where water pools on the soil surface, or in

9 14 any location where surface water will enter the stockpiled dry

9 15 bedded manure.

9 16 d. The person shall not stockpile dry bedded manure on

9 17 land having a slope of more than three percent unless methods,

9 18 structures, or practices are implemented to contain the

9 19 using hay bales, silt fences, temporary earthen berms, or
9 20 other effective measures, and to prevent or diminish
9 21 precipitation=induced runoff from the stockpiled dry bedded
9 22 manure.

9 23 e. The person shall not stockpile dry bedded manure on
9 24 karst terrain or in an alluvial aquifer area unless the person
9 25 complies with all of the following:

9 26 (1) The person must stockpile the dry bedded manure at a
9 27 location where there is a vertical separation distance of at
9 28 least five feet between the bottom of the stockpiled dry
9 29 manure and the underlying limestone, dolomite, or other
9 30 soluble rock in karst terrain or the underlying sand and
9 31 gravel aquifer in an alluvial aquifer area.

9 32 (2) The dry bedded manure must be stockpiled on reinforced
9 33 concrete at least five inches thick.

9 34 2. The person shall remove the stockpiled dry bedded
9 35 manure and apply it in accordance with the provisions of
10 1 chapter 459, including but not limited to section 459.311,
10 2 within six months after the dry bedded manure is stockpiled.

10 3 Sec. 12. NEW SECTION. 459B.303 MANURE MANAGEMENT PLAN
10 4 FOR A DRY BEDDED CONFINEMENT OPERATION.

10 5 For purposes of a manure management plan for a dry bedded
10 6 confinement operation, if the application of dry bedded manure
10 7 is on land other than land owned or rented for crop production
10 8 by the owner of the dry bedded confinement feeding operation,
10 9 the plan shall include a copy of each written agreement
10 10 executed by the owner of the dry bedded confinement feeding
10 11 operation and the landowner or the person renting the land for
10 12 crop production where the dry bedded manure may be applied.

10 13 SUBCHAPTER IV
10 14 ENFORCEMENT

10 15 Sec. 13. NEW SECTION. 459B.401 GENERAL.

10 16 The department and the attorney general shall enforce the
10 17 provisions of this chapter in the same manner as provided in
10 18 chapter 459, subchapter VI.

10 19 Sec. 14. NEW SECTION. 459B.402 VIOLATIONS == CIVIL
10 20 PENALTY.

10 21 A person who violates section 459B.301, shall be subject to
10 22 the same penalty as provided in section 459.602 and a person
10 23 who violates any other provision of this chapter shall be
10 24 subject to the same penalty as provided in section 459.603.
10 25 Any civil penalty collected shall be deposited in the animal
10 26 agriculture compliance fund created in section 459.401.

10 27 DIVISION III
10 28 CONFORMING CHANGES

10 29 Sec. 15. Section 455A.4, subsection 1, paragraph b, Code
10 30 2009, is amended to read as follows:

10 31 b. Provide overall supervision, direction, and
10 32 coordination of functions to be administered by the
10 33 administrators under chapters 321G, 321I, 455B, 455C, 456,
10 34 456A, 456B, 457A, 458A, 459, ~~459A, 459B~~, 461A, 462A, 462B,
10 35 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B.

11 1 Sec. 16. Section 455B.103, subsection 4, unnumbered
11 2 paragraph 1, Code 2009, is amended to read as follows:

11 3 Conduct investigations of complaints received directly or
11 4 referred by the commission created in section 455A.6 or other
11 5 investigations deemed necessary. While conducting an
11 6 investigation, the director may enter at any reasonable time
11 7 in and upon any private or public property to investigate any
11 8 actual or possible violation of this chapter, chapter 459,
11 9 chapter 459A, or the rules or standards adopted under this
11 10 chapter, chapter 459, ~~or~~ chapter 459A, ~~or~~ chapter 459B.

11 11 However, the owner or person in charge shall be notified.

11 12 Sec. 17. Section 455B.103A, subsection 1, unnumbered

11 13 paragraph 1, Code 2009, is amended to read as follows:

11 14 If a permit is required pursuant to this chapter, ~~or~~
11 15 chapter 459, ~~or~~ chapter 459A, ~~or~~ 459B for storm water
11 16 discharge or an air contaminant source and a facility to be
11 17 permitted is representative of a class of facilities which
11 18 could be described and conditioned by a single permit, the
11 19 director may issue, modify, deny, or revoke a general permit
11 20 for all of the following conditions:

11 21 Sec. 18. Section 455B.105, subsections 3, 6, and 8, Code
11 22 2009, are amended to read as follows:

11 23 3. Adopt, modify, or repeal rules necessary to implement
11 24 this chapter, chapter 459, ~~and~~ chapter 459A, ~~and~~ chapter 459B,
11 25 and the rules deemed necessary for the effective
11 26 administration of the department. When the commission
11 27 proposes or adopts rules to implement a specific federal
11 28 environmental program and the rules impose requirements more
11 29 restrictive than the federal program being implemented

11 30 requires, the commission shall identify in its notice of
11 31 intended action or adopted rule preamble each rule that is
11 32 more restrictive than the federal program requires and shall
11 33 state the reasons for proposing or adopting the more
11 34 restrictive requirement. In addition, the commission shall
11 35 include with its reasoning a financial impact statement
12 1 detailing the general impact upon the affected parties. It is
12 2 the intent of the general assembly that the commission
12 3 exercise strict oversight of the operations of the department.
12 4 The rules shall include departmental policy relating to the
12 5 disclosure of information on a violation or alleged violation
12 6 of the rules, standards, permits or orders issued by the
12 7 department and keeping of confidential information obtained by
12 8 the department in the administration and enforcement of this
12 9 chapter, chapter 459, ~~and~~ chapter 459A, ~~and~~ chapter 459B.
12 10 Rules adopted by the executive committee before January 1,
12 11 1981, shall remain effective until modified or rescinded by
12 12 action of the commission.

12 13 6. Approve all contracts and agreements under this
12 14 chapter, chapter 459, ~~and~~ chapter 459A, ~~and~~ chapter 459B
12 15 between the department and other public or private persons or
12 16 agencies.

12 17 8. Hold public hearings, except when the evidence to be
12 18 received is confidential pursuant to this chapter, chapter 22,
12 19 chapter 459, ~~or~~ chapter 459A, ~~or~~ chapter 459B, necessary to
12 20 carry out its powers and duties. The commission may issue
12 21 subpoenas requiring the attendance of witnesses and the
12 22 production of evidence pertinent to the hearings. A subpoena
12 23 shall be issued and enforced in the same manner as provided in
12 24 civil actions.

12 25 Sec. 19. Section 455B.105, subsection 11, paragraph a,
12 26 unnumbered paragraph 1, Code 2009, is amended to read as
12 27 follows:

12 28 Adopt, by rule, procedures and forms necessary to implement
12 29 the provisions of this chapter, ~~chapter and chapters~~ 459, ~~and~~
~~12 30 chapter 459A, and 459B~~ relating to permits, conditional
12 31 permits, and general permits. The commission may also adopt,
12 32 by rule, a schedule of fees for permit and conditional permit
12 33 applications and a schedule of fees which may be periodically
12 34 assessed for administration of permits and conditional
12 35 permits. In determining the fee schedules, the commission

13 1 shall consider:
13 2 Sec. 20. Section 455B.109, subsection 5, paragraph b, Code
13 3 2009, is amended by adding the following new subparagraph:
13 4 NEW SUBPARAGRAPH. (4) Civil penalties assessed by the
13 5 department and interest on the civil penalties, arising out of
13 6 violations involving dry bedded confinement feeding operations
13 7 under chapter 459B, shall be deposited in the animal
13 8 agriculture compliance fund as created in section 459.401.

13 9 Sec. 21. Section 455B.111, subsection 1, paragraphs a and
13 10 b, Code 2009, is amended to read as follows:

13 11 a. A person, including the state of Iowa, for violating
13 12 any provision of this chapter; chapter 459, subchapters I, II,
13 13 III, IV, and VI; chapter 459A; chapter 459B; or a rule adopted
13 14 pursuant to this chapter; chapter 459, subchapters I, II, III,
13 15 IV, and VI; ~~or~~ chapter 459A; ~~or~~ chapter 459B.

13 16 b. The director, the commission, or any official or
13 17 employee of the department where there is an alleged failure
13 18 to perform any act or duty under this chapter; chapter 459,
13 19 subchapters I, II, III, IV, and VI; chapter 459A; chapter
13 20 459B; or a rule adopted pursuant to this chapter; chapter 459,
13 21 subchapters I, II, III, IV, and VI; ~~or~~ chapter 459A; ~~or~~
13 22 chapter 459B, which is not a discretionary act or duty.

13 23 Sec. 22. Section 455B.111, subsection 5, Code 2009, is
13 24 amended to read as follows:

13 25 5. This section does not restrict any right under
13 26 statutory or common law of a person or class of person to seek
13 27 enforcement of provisions of this chapter; chapter 459,
13 28 subchapters I, II, III, IV, and VI; chapter 459A; chapter
13 29 459B; or a rule adopted pursuant to this chapter; chapter 459,
13 30 subchapters I, II, III, IV, and VI; or chapter 459A; chapter
13 31 459B; or seek other relief permitted under the law.

13 32 Sec. 23. Section 455B.112, Code 2009, is amended to read
13 33 as follows:

13 34 455B.112 ACTIONS BY ATTORNEY GENERAL.

13 35 In addition to the duty to commence legal proceedings at
14 1 the request of the director or commission under this chapter;
14 2 chapter 459, subchapters I, II, III, IV, and VI; ~~or~~ chapter
14 3 459A; ~~or~~ chapter 459B, the attorney general may institute
14 4 civil or criminal proceedings, including an action for
14 5 injunction, to enforce the provisions of this chapter; chapter

14 6 459, subchapters I, II, III, IV, and VI; ~~or~~ chapter 459A; or
14 7 chapter 459B, including orders or permits issued or rules
14 8 adopted under this chapter; chapter 459, subchapters I, II,
14 9 III, IV, and VI; ~~or~~ chapter 459A; or chapter 459B.

14 10 Sec. 24. Section 455B.174, subsection 1, Code 2009, is
14 11 amended to read as follows:

14 12 1. Conduct investigations of alleged water pollution or of
14 13 alleged violations of this part of this division, ~~or~~ chapter
14 14 459, subchapter III, chapter 459A, chapter 459B, or any rule
14 15 adopted or any permit issued pursuant thereto upon written
14 16 request of any state agency, political subdivision, local
14 17 board of health, twenty-five residents of the state, as
14 18 directed by the department, or as may be necessary to
14 19 accomplish the purposes of this part of this division, ~~or~~
14 20 chapter 459, subchapter III, chapter 459A, or chapter 459B.

14 21 Sec. 25. Section 455B.175, unnumbered paragraph 1, Code
14 22 2009, is amended to read as follows:

14 23 If there is substantial evidence that any person has
14 24 violated or is violating any provision of this part of this
14 25 division, chapter 459, subchapter III, ~~or~~ chapter 459A, or
14 26 chapter 459B, or of any rule or standard established or permit
14 27 issued pursuant thereto; then:

14 28 Sec. 26. Section 455B.182, Code 2009, is amended to read
14 29 as follows:

14 30 455B.182 FAILURE CONSTITUTES CONTEMPT.

14 31 Failure to obey any order issued by the department with
14 32 reference to a violation of this part of this division;
14 33 chapter 459, subchapter III; ~~or~~ chapter 459A; chapter 459B; or
14 34 any rule promulgated or permit issued pursuant thereto shall
14 35 constitute prima facie evidence of contempt. In such event
15 1 the department may certify to the district court of the county
15 2 in which such alleged disobedience occurred the fact of such
15 3 failure. The district court after notice, as prescribed by
15 4 the court, to the parties in interest shall then proceed to
15 5 hear the matter and if it finds that the order was lawful and
15 6 reasonable it shall order the party to comply with the order.
15 7 If the person fails to comply with the court order, that
15 8 person shall be guilty of contempt and shall be fined not to
15 9 exceed five hundred dollars for each day that the person fails
15 10 to comply with the court order. The penalties provided in
15 11 this section shall be considered as additional to any penalty
15 12 which may be imposed under the law relative to nuisances or
15 13 any other statute relating to the pollution of any waters of
15 14 the state or related to public water supply systems and a
15 15 conviction under this section shall not be a bar to
15 16 prosecution under any other penal statute.

15 17 Sec. 27. Section 455B.185, Code 2009, is amended to read
15 18 as follows:

15 19 455B.185 DATA FROM DEPARTMENTS.

15 20 The commission and the director may request and receive
15 21 from any department, division, board, bureau, commission,
15 22 public body, or agency of the state, or of any political
15 23 subdivision thereof, or from any organization, incorporated or
15 24 unincorporated, which has for its object the control or use of
15 25 any of the water resources of the state, such assistance and
15 26 data as will enable the commission or the director to properly
15 27 carry out their activities and effectuate the purposes of this
15 28 part 1 of division III; chapter 459, subchapter III; ~~or~~
15 29 chapter 459A; or chapter 459B. The department shall reimburse
15 30 such agencies for special expense resulting from expenditures
15 31 not normally a part of the operating expenses of any such
15 32 agency.

15 33 Sec. 28. Section 459.401, subsection 2, paragraph a,
15 34 subparagraph (5), Code 2009, is amended to read as follows:

15 35 (5) The collection of civil penalties assessed by the
16 1 department and interest on civil penalties, arising out of
16 2 violations involving animal feeding operations as provided in
16 3 sections 459.602, 459.603, ~~and~~ 459A.502, and 459B.402.

16 4 EXPLANATION

16 5 DIVISION I. APPLICATION OF MANURE ON FROZEN AND SNOW
16 6 COVERED GROUND. This bill amends the "Animal Agriculture
16 7 Compliance Act" (Code section 459.101), by providing for
16 8 conditions when a person may apply liquid manure during winter
16 9 months beginning on February 1 and ending on April 1 on frozen
16 10 ground or snow covered ground. The application must be
16 11 "urgent", meaning that there is an immediate need to comply
16 12 with Code section 459.311(1) that prohibits manure from being
16 13 discharged directly into water of the state or into a tile
16 14 line that discharges directly into a water of the state. In
16 15 addition, the need must be unforeseen by and beyond the
16 16 control of the owner or operator of the confinement feeding

16 17 operation. However, the restrictions do not apply to manure
16 18 originating from a small animal feeding operation or liquid
16 19 manure that is injected into the soil or incorporated within
16 20 the soil on the same date as applied to the land.

16 21 REPORT REQUIRED. The division also requires the department
16 22 of natural resources to prepare and submit a report to the
16 23 general assembly on or before July 1, 2010. The report must
16 24 provide recommendations regarding (1) the need for improved
16 25 manure storage structures associated with small animal feeding
16 26 operations to improve water quality, and (2) the application
16 27 of dry manure on frozen ground or snow covered ground.

16 28 PENALTIES APPLICABLE. Generally, a person who applies
16 29 manure in violation of the new provision is subject to a civil
16 30 penalty that may be administratively assessed by the
16 31 department of not more than \$10,000 (Code section 455B.109) or
16 32 judicially assessed of not more than \$5,000 per each day of
16 33 the violation (455B.191(1)). Penalties are deposited into the
16 34 animal agriculture compliance fund (Code section 459.401).

16 35 DIVISION II. DRY BEDDED CONFINEMENT FEEDING OPERATIONS.

17 1 The bill creates a new Code chapter referred to as the "Animal
17 2 Agriculture Compliance Act for Dry Bedded Confinement Feeding
17 3 Operations" (new Code section 459B.101). The bill's
17 4 provisions correspond closely to the "Animal Agriculture
17 5 Compliance Act" (Code chapter 459). The bill regulates dry
17 6 bedded confinement feeding operations for animals (cattle and
17 7 swine). The operation includes a building housing the animals
17 8 utilizing bedding (crop, vegetation, or forage residue or
17 9 similar materials) and any structure used to keep the dry
17 10 bedded manure (new Code section 459B.102).

17 11 ADJACENCY. The bill provides that two or more dry bedded
17 12 confinement feeding operations under common ownership or
17 13 common management are deemed to be a single dry bedded
17 14 confinement feeding operation if they are separated by less
17 15 than 1,250 feet or utilize a common area or system for dry
17 16 bedded manure disposal (new Code section 459B.103 compared to
17 17 Code section 459.201).

17 18 ADMINISTRATION. The bill authorizes the environmental
17 19 protection commission to adopt rules necessary to regulate the
17 20 construction or operation of dry bedded confinement feeding
17 21 operations, and provides that the provisions of the new Code
17 22 chapter are to supplement the applicable provisions of Code
17 23 chapter 459 (new Code section 459B.104 compared to Code
17 24 section 459.103).

17 25 CONSTRUCTION. The bill regulates the construction of dry
17 26 bedded confinement feeding operation structures, and requires
17 27 special flooring to prevent groundwater contamination (new
17 28 Code section 459B.201). Separation distances are required
17 29 between a dry bedded confinement feeding operation structure
17 30 and various objects or locations, including the surface intake
17 31 of an agricultural drainage well, wellhead, cistern of an
17 32 agricultural drainage well, or known sinkhole, a water source
17 33 and major water source, and designated wetland. It prohibits
17 34 construction within a 100 year floodplain (new Code section
17 35 459B.202 compared to Code section 459.310).

18 1 DRY BEDDED MANURE CONTROL. The bill provides for the
18 2 stockpiling of dry bedded manure, and includes separation
18 3 distances based on air and water quality.

18 4 AIR QUALITY. For air quality, separation distances are
18 5 established for a stockpile and a residence not owned by the
18 6 titleholder of the land, a commercial enterprise, a bona fide
18 7 religious institution, an educational institution, or a public
18 8 use area (new Code section 459B.301 compared to Code section
18 9 459.204). Several exceptions apply, including when a
18 10 titleholder executes a waiver, and the manure originates from
18 11 a small animal feeding operation (compared with Code section
18 12 459.205).

18 13 WATER QUALITY. For water quality, other separation
18 14 distance requirements apply, including for a "designated area"
18 15 (i.e., a known sinkhole, a cistern, an abandoned well, an
18 16 unplugged agricultural drainage well, an agricultural drainage
18 17 well surface inlet, a drinking water well, a wetland, or a
18 18 water source, but not a terrace tile inlet or surface tile
18 19 inlet other than an agricultural drainage well surface tile
18 20 inlet), a high-quality water resource, a terrace tile inlet,
18 21 or a surface tile inlet (new Code section 459B.302). The bill
18 22 restricts stockpiling on a grassed waterway, on certain
18 23 slopes, and on karst terrain or in an alluvial aquifer area.

18 24 MANURE MANAGEMENT PLAN. The bill provides that a person
18 25 required to file a manure management plan for dry bedded
18 26 manure confinement feeding operation may submit a copy of a
18 27 written agreement executed between the person and the person

18 28 renting the land for crop production (new Code section
18 29 459B.303 compared with Code section 459.312).
18 30 ENFORCEMENT. The department and the attorney general are
18 31 responsible for enforcing the provisions of the new Code
18 32 chapter (new Code section 459B.401 as compared with Code
18 33 section 459.601).
18 34 PENALTIES. A person who stockpiles dry bedded manure in
18 35 violation of air quality restrictions under new Code section
19 1 459B.301 is subject to a civil penalty for air quality
19 2 violations as provided in Code section 455B.109, which
19 3 authorizes the environmental protection commission to
19 4 establish civil penalty amounts according to a schedule not to
19 5 exceed \$10,000 (new Code section 459B.402 compared with Code
19 6 section 459.602). A person who violates any other provision
19 7 of the new Code chapter is subject to penalties for water
19 8 quality violations as provided in Code section 455B.109 or
19 9 455B.191 which includes a judicially assessed civil penalty of
19 10 up to \$5,000 per each day of the violation (new Code section
19 11 459B.402 compared with Code section 459.603). Moneys
19 12 collected from civil penalties are deposited into the animal
19 13 agriculture compliance fund (Code section 459.401).
19 14 DIVISION III. CONFORMING CHANGES. The bill amends
19 15 provisions in a number of Code sections which refer to Code
19 16 chapter 459. The provisions were added after provisions in
19 17 Code chapter 455B and other Code chapters relating to animal
19 18 feeding operations were transferred and consolidated pursuant
19 19 to 2002 Acts, chapter 1137, and 2002 Acts, 2nd Ex, chapter
19 20 1003. Other provisions make changes which refer to the
19 21 deposit of civil penalties into the animal agriculture
19 22 compliance fund (Code section 459.401).
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