

Senate File 406 - Introduced

SENATE FILE _____
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 174)

(COMPANION TO LSB 1803HV BY
COMMITTEE ON AGRICULTURE)

Passed Senate, Date _____ Passed House, 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 1803SV 83
6 da/nh/14

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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 1803SV 83
9 16 da/nh/14