

House Study Bill 171 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON GRASSLEY)

A BILL FOR

1 An Act providing for the determination of animal units which
2 are part of confinement feeding operations, and making
3 penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459.301, subsection 3, Code 2013, is
2 amended to read as follows:

3 3. In calculating the animal unit capacity of a confinement
4 feeding operation, the animal unit capacity shall include the
5 animal unit capacity of all confinement feeding operation
6 buildings ~~which are part of the confinement feeding operation,~~
7 ~~unless a confinement feeding operation building has been~~
8 ~~abandoned as provided in section 459.201~~ that are used to house
9 animals.

10 Sec. 2. NEW SECTION. 459.312A Election to be a small animal
11 feeding operation.

12 A person otherwise required to submit an updated manure
13 management plan as required in section 459.312 and pay an
14 annual compliance fee as required in section 459.400 may make
15 a small animal feeding operation election as provided in this
16 section.

17 1. Upon the effective date of the election, the confinement
18 feeding operation covered by the updated manure management
19 plan shall be considered a small animal feeding operation only
20 for purposes of submitting the updated manure management plan
21 and paying the annual compliance fee, during the period of the
22 election.

23 2. A person is eligible to make an election only if all of
24 the following apply:

25 a. Five hundred or fewer animal units are housed at the
26 confinement feeding operation at any one time during the period
27 of election.

28 b. The department is notified of the election in a manner
29 required by the department. The department may require that a
30 person submit a notice of election as part of an updated manure
31 management plan form or as a separate document.

32 3. The department shall provide for the period of election,
33 including its effective and expiration dates. However, the
34 period of election shall be at least for the same period
35 covered by the updated manure management plan. An election

1 automatically terminates when more than five hundred animal
2 units are housed at the confinement feeding operation at any
3 one time.

4 4. This section does not affect any of the following:

5 a. A condition associated with a construction permit as
6 provided in this subchapter, including but not limited to a
7 master matrix as provided in section 459.305.

8 b. A requirement unrelated to filing an updated manure
9 management plan or paying an annual compliance fee, including
10 but not limited to the filing of a construction design
11 statement as provided in section 459.306, the application of
12 manure as provided in section 459.313A, or the certification of
13 a person as a confinement site manure applicator as provided
14 in section 459.315.

15 Sec. 3. Section 459.400, subsection 1, paragraph c, Code
16 2013, is amended to read as follows:

17 c. An annual compliance fee that is required to accompany an
18 updated manure management plan submitted to the department for
19 approval as provided in section 459.312.

20 (1) The amount of the annual compliance fee shall not exceed
21 a rate of fifteen cents per animal unit ~~based on the multiplied~~
22 by the maximum number of animal unit capacity of units housed
23 at the confinement feeding operation during the period covered
24 by the manure management plan.

25 (2) If the person submitting the manure management plan is
26 a contract producer, as provided in chapter 202, the active
27 contractor shall be assessed the annual compliance fee.

28 EXPLANATION

29 BACKGROUND. The department of natural resources
30 (department) is required to regulate confinement feeding
31 operations (operations) under Code chapter 459, the "Animal
32 Agriculture Compliance Act". This bill amends provisions in
33 subchapter III which govern water quality, including how and
34 when manure from such operations is to be applied to land.

35 CURRENT ANIMAL UNIT CAPACITY FORMULA TO DETERMINE AN

1 OPERATION'S SIZE. To some extent, the degree of regulation
2 depends upon an operation's size which is determined by
3 calculating its animal unit capacity; the maximum number
4 of animal units that may be maintained in all confinement
5 buildings (buildings) at any one time (Code section 459.102).
6 Each of various types of animals are assigned a special
7 equivalency factor. For example, a butcher or breeding swine
8 weighing more than 55 pounds has a factor of 0.4 animal units
9 (Code section 459.102). Generally, when calculating the animal
10 unit capacity of an operation, buildings constructed as part
11 of the operation are included regardless of whether they are
12 occupied, except if a building has been abandoned, i.e., has
13 been razed or converted to another use (Code section 459.301).

14 SMALL ANIMAL FEEDING OPERATIONS. The current law provides
15 a special regulatory exemption for small animal feeding
16 operations, which have an animal unit capacity of 500 or fewer
17 animal units (Code section 459.102). In the example above, a
18 confinement feeding operation with three buildings keeping a
19 maximum of 400 swine in each of two buildings and no animals in
20 the third building would not qualify as a small animal feeding
21 operation if the capacity of the three buildings were 600, 500,
22 and 300 animal units, respectively ($1,400 \times 0.4 = 560$).

23 REVISING CURRENT FORMULA — CALCULATING CONFINEMENT ANIMAL
24 UNIT CAPACITY BASED ON USED AND UNUSED BUILDINGS. This bill
25 revises the current formula by excluding any building that is
26 not occupied regardless of whether it is abandoned. This is
27 the same formula used to calculate the animal unit capacity of
28 dry-bedded confinement feeding operations using so-called "hoop
29 buildings" (Code section 459B.103). In the example above, the
30 confinement feeding would qualify as a small animal feeding
31 operation since the third empty building is no longer counted
32 ($1,100 \times 0.4 = 440$).

33 NEW FORMULA — RECLASSIFYING CONFINEMENT FEEDING OPERATIONS
34 BASED ON MAXIMUM NUMBER OF ANIMAL UNITS. The bill allows a
35 person to elect to be exempt from filing a manure management

1 plan update (update) with the department and paying an
2 associated annual compliance fee (fee) if the person can
3 reclassify the operation as a small animal feeding operation
4 using the new formula. An update is required to be filed by a
5 person who owns a confinement feeding operation or who applies
6 manure from a confinement feeding operation located outside
7 the state (Code section 459.312). Both the original plan
8 and the update must include the latest information regarding
9 manure application. Using the example above, the operation
10 could elect to be exempt as a small animal feeding operation
11 ($800 \times 0.4 = 320$). The bill provides that the department
12 must determine the period of election so long as the minimum
13 election period equals the duration of the updated plan.
14 However, the election period automatically terminates if
15 the operation no longer qualifies as a small animal feeding
16 operation as calculated using the new formula.

17 NEW FORMULA — ANNUAL COMPLIANCE FEE. The bill provides
18 that a person must now calculate the fee accompanying the
19 update by applying the new formula. Using the example above,
20 if the operation were not exempted as a small animal feeding
21 operation, the person who would have paid a fee of \$84 (560×15
22 cents) under the current formula would pay \$48 (320×15 cents)
23 under the new formula.

24 CIVIL PENALTIES. A person who violates Code chapter 468,
25 subchapter III is subject to a civil penalty. The department
26 is authorized to impose a range of civil penalties based
27 on a number of criteria. The general civil penalty cannot
28 exceed \$10,000 (Code sections 459.603 and 455B.109). A
29 person violating a provision is also subject to judicial
30 action brought by the attorney general (Code sections 459.603
31 and 455B.191). The general civil penalty applicable for a
32 violation cannot exceed \$5,000.