

Senate File 418 - Introduced

SENATE FILE 418
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 1180)

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. In calculating
9 animal unit capacity for purposes of an election to be a small
10 animal feeding operation as provided in section 459.312A, the
11 animal unit capacity of a confinement feeding operation shall
12 include all confinement feeding operation buildings that are
13 used to house animals.

14 Sec. 2. NEW SECTION. 459.312A Election to be a small animal
15 feeding operation.

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

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

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

29 a. Five hundred or fewer animal units are housed at the
30 confinement feeding operation at any one time during the period
31 of election.

32 b. The department is notified of the election in a manner
33 required by the department. The department may require that a
34 person submit a notice of election as part of an updated manure
35 management plan form or as a separate document.

1 3. The department shall provide for the period of election,
2 including its effective and expiration dates. However, the
3 period of election shall be at least for the same period
4 covered by the updated manure management plan. An election
5 automatically terminates when more than five hundred animal
6 units are housed at the confinement feeding operation at any
7 one time.

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

9 a. A condition associated with a construction permit as
10 provided in this subchapter, including but not limited to a
11 master matrix as provided in section 459.305.

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

19 EXPLANATION

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

26 CURRENT ANIMAL UNIT CAPACITY FORMULA TO DETERMINE AN
27 OPERATION'S SIZE. To some extent, the degree of regulation
28 depends upon an operation's size which is determined by
29 calculating its animal unit capacity; the maximum number
30 of animal units that may be maintained in all confinement
31 buildings (buildings) at any one time (Code section 459.102).
32 Each of various types of animals are assigned a special
33 equivalency factor. For example, a butcher or breeding swine
34 weighing more than 55 pounds has a factor of 0.4 animal units
35 (Code section 459.102). Generally, when calculating the animal

1 unit capacity of an operation, buildings constructed as part
2 of the operation are included regardless of whether they are
3 occupied, except if a building has been abandoned, i.e., has
4 been razed or converted to another use (Code section 459.301).

5 SMALL ANIMAL FEEDING OPERATIONS. The current law provides
6 a special regulatory exemption for small animal feeding
7 operations, which have an animal unit capacity of 500 or
8 fewer animal units (Code section 459.102). For example, a
9 confinement feeding operation with three buildings keeping
10 a maximum of 400 butcher or breeding swine in each of two
11 buildings and no animals in the third empty building would not
12 qualify as a small animal feeding operation if the capacity
13 of the three buildings were 600, 500, and 300 animal units,
14 respectively ($1,400 \times 0.4 = 560$).

15 NEW FORMULA — RECLASSIFYING CONFINEMENT FEEDING OPERATIONS
16 BASED ON MAXIMUM NUMBER OF ANIMAL UNITS. The bill allows a
17 person to elect to be exempt from filing a manure management
18 plan update (update) with the department and paying an
19 associated annual compliance fee (fee) if the person can
20 reclassify the operation as a small animal feeding operation
21 using a new formula which is based on the maximum number
22 of animal units actually housed at the confinement feeding
23 operation at any one time during the election period. An
24 update is required to be filed by a person who owns a
25 confinement feeding operation or who applies manure from a
26 confinement feeding operation located outside the state (Code
27 section 459.312). Both the original plan and the update must
28 include the latest information regarding manure application.
29 Using the example above, the operation could elect to be exempt
30 as a small animal feeding operation ($800 \times 0.4 = 320$). The
31 bill provides that the department must determine the period
32 of election so long as the minimum election period equals the
33 duration of the updated plan. However, the election period
34 automatically terminates if the operation no longer qualifies
35 as a small animal feeding operation as calculated using the new

1 formula.

2 CIVIL PENALTIES. A person who violates Code chapter 459,
3 subchapter III is subject to a civil penalty. The department
4 is authorized to impose a range of civil penalties based
5 on a number of criteria. The general civil penalty cannot
6 exceed \$10,000 (Code sections 459.603 and 455B.109). A
7 person violating a provision is also subject to judicial
8 action brought by the attorney general (Code sections 459.603
9 and 455B.191). The general civil penalty applicable for a
10 violation cannot exceed \$5,000.