

House File 586 - Introduced

HOUSE FILE 586

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 440)

A BILL FOR

1 An Act relating to animal feeding operations, by providing
2 for information contained in public records, the use of
3 vehicles or tank wagons used in the application of manure,
4 biosecurity requirements, and county documents.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I
2 PUBLIC RECORDS INDICATING NONCOMPLIANCE
3 WITH MANURE MANAGEMENT PLANS

4 Section 1. Section 459.302, Code 2015, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 3. If the department prepares a public
7 record regarding a person's failure to comply with the
8 requirements for filing a manure management plan under
9 section 459.312, the department shall indicate whether it
10 has determined that such noncompliance was due to an obvious
11 mistake or oversight. The indication does not preclude the
12 department from later changing its determination.

13 DIVISION II
14 CERTIFIED MANURE APPLICATORS

15 Sec. 2. NEW SECTION. 459.316 Vehicles operated by
16 certified commercial manure services or commercial manure service
17 representatives — identification.

18 The department may require that a vehicle or tank used by
19 a certified commercial manure service or certified commercial
20 manure service representative transporting manure on a
21 public road display a certification number as assigned by
22 the department to the certified commercial manure service.
23 However, the department shall not require that the vehicle
24 display other information identifying the certified commercial
25 manure service or the certified commercial manure service
26 representative.

27 DIVISION III
28 BIOSECURITY

29 Sec. 3. Section 459.207, subsection 3, paragraph b, Code
30 2015, is amended to read as follows:

31 b. (1) Any air quality standard established by the
32 department for animal feeding operations shall be based on
33 and enforced at distances measured from a confinement feeding
34 operation structure to a separated location. In providing for
35 the enforcement of the standards, the department shall take

1 all initial measurements at the separated location. If the
2 department determines that a violation of the standards exists,
3 the department may conduct an investigation to trace the source
4 of the airborne pollutant.

5 (2) This section does not prohibit the department from
6 entering the premises of an animal feeding operation in
7 compliance with section 455B.103.

8 (3) (a) ~~The department~~ In addition to complying with
9 section 455B.103, a person who is a departmental official,
10 an agent of the department, or a person accompanying the
11 departmental official shall also comply with standard
12 biosecurity requirements customarily required by the animal
13 feeding operation which are necessary in order to control the
14 spread of disease among an animal population. If the owner
15 or manager of the animal feeding operation alleges that the
16 person is failing to comply with the standard biosecurity
17 requirements, the person must leave the animal feeding
18 operation at the request of the owner or manager.

19 (b) Subparagraph division (a) does not apply if the
20 department obtains a search warrant issued by a district court
21 as provided in section 455B.103 that allows a departmental
22 official to enter onto or remain on the premises of the animal
23 feeding operation in compliance with standard biosecurity
24 requirements as particularly described in the warrant.

25 Sec. 4. Section 459.304, subsection 6, Code 2015, is amended
26 to read as follows:

27 6. a. The department may conduct an inspection of the site
28 on which the construction is proposed after providing at a
29 minimum twenty-four hours' notice or upon receiving consent
30 from the construction permit applicant. The county board
31 of supervisors that has adopted a construction evaluation
32 resolution may designate a county employee to accompany a
33 departmental official during the site inspection. The county
34 employee shall have the same right to access to the site's real
35 estate as the departmental official conducting the inspection

1 during the period that the county employee accompanies the
2 departmental official.

3 b. The departmental official and the county employee shall
4 comply with standard biosecurity requirements customarily
5 required by the confinement feeding operation that are
6 necessary in order to control the spread of disease among an
7 animal population. If the owner or manager of the animal
8 feeding operation alleges that the departmental official
9 or county employee is failing to comply with the standard
10 biosecurity requirements and that failure threatens an animal
11 population, the departmental official and county employee must
12 leave the site on which the construction is proposed at the
13 request of the owner or manager. The department shall proceed
14 with evaluating those parts of the construction application
15 that do not require an inspection until the matter is resolved.

16 Sec. 5. Section 459.601, subsection 3, Code 2015, is amended
17 to read as follows:

18 3. a. When entering the premises of an animal feeding
19 operation, a person who is a departmental official, an agent
20 of the department, or a person accompanying the departmental
21 official or agent shall comply with section 455B.103.

22 b. (1) The In addition to complying with section 455B.103,
23 a person described in paragraph "a" shall also comply with
24 standard biosecurity requirements customarily required by
25 the animal feeding operation which are necessary in order to
26 control the spread of disease among an animal population.
27 If the owner or manager of the animal feeding operation
28 alleges that the person is failing to comply with the standard
29 biosecurity requirements, the person must leave the animal
30 feeding operation at the request of the owner or manager.

31 (2) Subparagraph (1) does not apply if the department
32 obtains a search warrant issued by a district court as provided
33 in section 455B.103 that allows a departmental official to
34 enter onto or remain on the premises of the animal feeding
35 operation in compliance with standard biosecurity requirements

1 as particularly described in the warrant.

2 DIVISION IV

3 COUNTY DOCUMENTS

4 Sec. 6. Section 459.302, Code 2015, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 4. *a.* A county board of supervisors may
7 adopt a document retention resolution that provides that the
8 county is not required to accept the submission of a document
9 or serve as the custodian of filed documents. The resolution
10 shall apply to any of the following:

11 (1) Applications and supporting materials for permits to
12 construct confinement feeding operation structures as provided
13 in sections 459.303 and 459.304.

14 (2) Manure management plans as provided in section 459.312.

15 *b.* The board shall submit the resolution to the department
16 and the department shall file the resolution if the resolution
17 meets the requirements of paragraph "*a*" regardless of whether
18 the department has filed a construction evaluation resolution
19 pursuant to section 459.303. The board submitting a document
20 retention resolution may destroy any archived document covered
21 by the resolution on or after the date that the resolution is
22 filed by the department.

23 *c.* If a document covered by a document retention resolution
24 filed with the department is not available to the board on
25 the department's internet site, the department, upon request
26 by the board, shall transmit the document to the board. The
27 county auditor or other county officer may request or accept
28 the document on behalf of the board.

29 *d.* This subsection does not enlarge or restrict a duty or
30 power of a county board of supervisors as provided in this
31 chapter other than allowing for an election by such a board not
32 to perform a ministerial function.

33 Sec. 7. Section 459.303, subsection 2, Code 2015, is amended
34 to read as follows:

35 2. The department shall issue a construction permit upon

1 approval of an application. The department shall approve the
 2 application if the application is submitted to the county board
 3 of supervisors in the county where the proposed confinement
 4 feeding operation structure is to be located as required
 5 pursuant to section 459.304, and the application meets the
 6 requirements of this chapter. However, a board that files a
 7 document retention resolution with the department as provided
 8 in section 459.302 is not required to accept an application.

9 If a county submits an approved recommendation pursuant to a
 10 construction evaluation resolution filed with the department,
 11 the application must also achieve a satisfactory rating
 12 produced by the master matrix used by the board or department
 13 under section 459.304. The department shall approve the
 14 application regardless of whether the applicant is required to
 15 be issued a construction permit.

16 Sec. 8. Section 459.304, subsection 1, Code 2015, is amended
 17 by adding the following new paragraph:

18 NEW PARAGRAPH. c. Notwithstanding paragraphs "a" and "b",
 19 a board that files a document retention resolution with the
 20 department as provided in section 459.302 is not required to
 21 accept an application.

22 Sec. 9. Section 459.312, subsection 4, paragraph b, Code
 23 2015, is amended to read as follows:

24 b. The manure management plan shall be filed with the
 25 county board of supervisors. The county auditor or other
 26 county officer may accept the manure management plan on behalf
 27 of the board. However, a county board of supervisors that
 28 files a document retention resolution with the department as
 29 provided in section 459.302 is not required to accept a manure
 30 management plan.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
 33 the explanation's substance by the members of the general assembly.

34 GENERAL. This bill applies to animal feeding operations in
 35 which animals are confined and fed and maintained for 45 days

1 or more in any 12-month period, and specifically confinement
2 feeding operations constructed under a roof that store liquid
3 manure (Code chapter 459). The chapter is administered and
4 enforced by the department of natural resources under the
5 direction of the environmental protection commission.

6 **MANURE MANAGEMENT PLANS.** The bill provides that if the
7 department prepares a public record stating that a person has
8 failed to comply with the requirements for filing a manure
9 management plan, it must indicate whether the noncompliance was
10 due to an obvious mistake or oversight.

11 **CERTIFIED MANURE APPLICATORS.** The bill allows the
12 department to require that a vehicle or tank used by a
13 certified commercial manure service or certified commercial
14 manure service representative transporting manure on a
15 public road display a certification number as assigned by the
16 department, but cannot require other information identifying
17 the certified commercial manure service or the certified
18 commercial manure service representative.

19 **BIOSECURITY.** The bill requires that when the owner or
20 manager of an animal feeding operation alleges that a person
21 who is a departmental official, an agent of the department, or
22 a county employee fails to comply with biosecurity requirements
23 during an inspection of an animal feeding operation or a
24 construction site where an animal feeding operation exists,
25 that person must leave the premises or site at the request
26 of the owner or manager. However, this requirement does not
27 apply to a department official who inspects an existing animal
28 feeding operation pursuant to a search warrant issued by a
29 district court which specifies the biosecurity requirements to
30 be followed.

31 **DOCUMENT RETENTION.** The bill provides that a county board
32 of supervisors may elect not to accept certain documents
33 related to the regulation of animal feeding operations, and
34 specifically confinement feeding operations. Specifically, the
35 bill allows a county board of supervisors to adopt a resolution

1 to forego receiving an application or related materials
2 for a permit to construct a confinement feeding operation
3 structure or a manure management plan governing the storage and
4 application of manure from a confinement feeding operation.
5 The board may request the department to transmit the document
6 to the county if it is not available on the department's
7 internet site.