

Senate File 2094 - Introduced

SENATE FILE 2094

BY JOCHUM

A BILL FOR

1 An Act relating to topsoil preservation requirements for
2 certain residential construction sites, and making penalties
3 applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 455B.103A, subsection 5, Code 2016, is
2 amended to read as follows:

3 5. The enforcement provisions of **division II of this chapter**
4 and **chapter 459, subchapter II**, apply to general permits
5 for air contaminant sources. The enforcement provisions of
6 division III, part 1, of this chapter, chapter 459, subchapter
7 III, and **chapter 459A** apply to general permits for storm
8 water discharge and the requirements for topsoil preservation
9 described in section 455B.197A.

10 Sec. 2. Section 455B.105, subsection 11, Code 2016, is
11 amended by adding the following new paragraph:

12 NEW PARAGRAPH. *d.* The commission shall adopt rules related
13 to the topsoil preservation requirements described in section
14 455B.197A.

15 Sec. 3. NEW SECTION. **455B.197A Topsoil preservation**
16 **requirements.**

17 1. For purposes of this section, unless the context
18 otherwise requires:

19 *a.* "*Final stabilization*" means topsoil disturbing activities
20 at a residential construction site are completed.

21 *b.* "*Residential construction site*" means a site or common
22 plan of residential development or sale, including the
23 development of a single-unit or multiple-unit residential
24 building, on which construction activity, including but not
25 limited to clearing, grading, and excavating, results in
26 topsoil disturbance.

27 *c.* "*Topsoil*" means as defined in section 208.2.

28 2. *a.* Topsoil shall be preserved or replaced on a
29 residential construction site where the surface area of the
30 ground disturbed is greater than five thousand square feet.
31 The requirement to preserve or replace topsoil shall be
32 met when the depth of topsoil, after final stabilization is
33 achieved, is at least three inches, including topsoil contained
34 in sod, on all areas of the site where the surface of the ground
35 disturbed for the construction activities is exposed and not

1 covered by concrete, asphalt, gravel, or other such material.

2 b. The final topsoil depth shall be measured after the
3 topsoil is compacted in a manner generally considered adequate
4 for an established lawn and so that the expected settling that
5 will occur after measurement will be minimal and shall include
6 the topsoil contained in sod placed on the site.

7 3. a. The requirement to preserve or replace topsoil in
8 accordance with subsection 2 may be waived by the commission
9 for a residential construction site where the surface area
10 of the ground disturbed is greater than twenty-five thousand
11 square feet, provided that the developer of such residential
12 construction site develops and implements a wastewater and
13 runoff plan approved by the commission. The wastewater and
14 runoff plan shall include but is not limited to the following
15 requirements:

16 (1) The preservation and replacement of all existing
17 topsoil on the areas of the site where the surface of the
18 ground is disturbed for construction activities and is exposed.

19 (2) Creation of a central drainage and recreational area
20 on the site that covers at least one-third of the area of the
21 site and drains at least two-thirds of the water runoff of the
22 site. Such an area may include the use of a wetland, prairie,
23 or forest, but shall not include the construction of a golf
24 course.

25 (3) Preservation of all feasibly maintainable and healthy
26 trees on the site with a trunk diameter of at least six inches.

27 b. The developer of a residential construction site
28 who develops a wastewater and runoff plan pursuant to this
29 subsection shall submit the plan to the commission for
30 approval. If the commission approves the plan, the commission
31 shall waive the requirements of subsection 2.

32 EXPLANATION

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

35 This bill establishes topsoil preservation requirements for

1 certain residential construction sites.

2 The bill provides that topsoil must be preserved or replaced
3 on residential construction sites where the surface area of
4 the ground disturbed is greater than 5,000 square feet. The
5 depth of topsoil must be at least three inches on areas of
6 the site where the surface of the ground was disturbed and
7 is exposed after final stabilization is achieved. However,
8 this requirement may be waived for residential construction
9 sites where the surface area of the ground disturbed is
10 greater than 25,000 feet if the developer develops and
11 implements a wastewater and runoff plan that is approved by the
12 environmental protection commission. Such a plan must include
13 requirements to preserve and replace all existing topsoil,
14 create a central drainage and recreational area covering at
15 least one-third of the site and draining at least two-thirds of
16 the water runoff, and preserve all healthy trees on the site
17 with a trunk diameter of at least six inches.

18 The bill requires the environmental protection commission
19 to adopt rules related to the bill and applies the enforcement
20 provisions of division III of Code chapter 455B, relating to
21 water quality, to the bill.

22 Certain penalties described in Code section 455B.191 apply
23 to the bill. A person who violates the bill is subject to
24 a civil penalty not to exceed \$5,000 for each day of the
25 violation. A person who knowingly makes a false statement
26 or representation in any document filed or required to be
27 maintained under the bill shall upon conviction be punished
28 by a fine of not more than \$10,000 or by imprisonment in the
29 county jail for not more than six months or by both.