

Senate File 2049 - Introduced

SENATE FILE 2049

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A BILL FOR

1 An Act requiring a notice of structural failure involving a
2 manure storage structure that is part of a confinement
3 feeding operation, making penalties applicable, and
4 including effective date provisions.

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

1 Section 1. NEW SECTION. 459.309 Manure storage structures
2 — notice of structural failure.

3 1. The owner or operator of a confinement feeding operation
4 shall notify the department of the structural failure of a
5 manure storage structure that is part of the confinement
6 feeding operation, regardless of whether it is a failure in
7 design or construction or whether such failure may result in a
8 violation of section 459.311.

9 2. The owner or operator of a confinement feeding operation
10 shall notify the department of a probable immediate structural
11 failure of a manure storage structure that is part of a
12 confinement feeding operation, as described in subsection 1.
13 The determination of a probable immediate structural failure
14 shall be based on factors established by the department which
15 may include any of the following:

16 a. An observation by the owner or operator of the
17 confinement feeding operation that the integrity of the
18 structure has been compromised.

19 b. An observation by the owner or operator of the
20 confinement feeding operation that a discharge from the manure
21 storage structure appears to have occurred.

22 c. A verbal or written report made to the owner or operator
23 of the confinement feeding operation by a professional engineer
24 based on the professional engineer's inspection of the manure
25 storage structure.

26 3. The department shall adopt rules providing notice
27 procedures, including when and how the owner or operator of
28 the confinement feeding operation is required to contact the
29 department.

30 a. The department may provide for different procedures based
31 on factors established by the department that quantify the
32 level of threat to water quality resulting from a structural
33 failure as described in subsection 1 or a probable immediate
34 structural failure as described in subsection 2. The factors
35 may include but are not limited to any of the following:

1 (1) The type and size of the confinement feeding operation
2 structure.

3 (2) The proximity of any discharge or probable immediate
4 discharge to the groundwater, a major water source, or a
5 high-quality water source.

6 (3) Whether the confinement feeding operation structure is
7 located on karst terrain.

8 *b.* The department may provide for different procedures
9 based on whether the structural failure has caused or may cause
10 injury or suffering to an animal maintained in a confinement
11 building that is associated with a manure storage structure.

12 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
13 importance, takes effect upon enactment.

14 EXPLANATION

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

17 BILL'S PROVISIONS. This bill requires the owner or operator
18 of a confinement feeding operation to notify the department of
19 natural resources (DNR) of any actual or probable immediate
20 structural failure from an associated manure storage structure
21 (structure). The failure may be the result of either the
22 design or construction of the structure. The determination
23 of a probable immediate structural failure must be based on
24 factors established by DNR which may include an observation by
25 the owner or operator or a report submitted to the owner or
26 operator by a professional engineer. DNR is required to adopt
27 rules that provide for notice procedures which may take into
28 account factors that quantify the level of threat to water
29 quality resulting from a discharge or an injury to or death of
30 an animal maintained in an associated confinement building.

31 BACKGROUND. The bill amends provisions in Code chapter 459
32 ("Animal Agriculture Compliance Act") which in part regulates
33 confinement feeding operations; meaning any area where certain
34 agricultural animals are confined to totally roofed areas
35 (most commonly buildings), if fed and maintained for 45

1 days or more in any 12-month period, and includes associated
2 manure storage structures. Code chapter 459, subchapter III,
3 regulates water quality, and includes requirements for the
4 construction of a number of types of manure storage structures,
5 including those made of durable materials such as concrete
6 and steel (formed) and an impoundment including an anaerobic
7 lagoon, aerobic structure, or earthen manure storage basin
8 (unformed). Generally, a manure storage structure must be
9 constructed pursuant to design standards established by DNR
10 rule (Code sections 459.307 and 459.308, and 567 IAC ch. 65).
11 A confinement feeding operation structure is required to retain
12 all manure produced between periods of manure disposal (Code
13 section 459.311) and is prohibited from discharging manure into
14 waters of the state which includes surface waters or ground
15 water sources.

16 PENALTIES APPLICABLE. A person who violates Code chapter
17 459, subchapter III, regulating water quality, is subject
18 to judicial action brought by the attorney general with
19 a civil penalty not to exceed \$5,000 for each day of such
20 violation (Code sections 455B.191 and 459.603). However,
21 DNR is authorized to impose a range of civil penalties
22 administratively based on a number of criteria and in that case
23 the civil penalty cannot exceed \$10,000 (Code sections 455B.109
24 and 459.603).

25 EFFECTIVE DATE. The bill, if enacted, would take effect upon
26 enactment.