

House File 202 - Introduced

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A BILL FOR

1 An Act authorizing counties to adopt county legislation
2 relating to the siting of confinement feeding operations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.304A, subsection 2, Code 2019, is
2 amended to read as follows:

3 2. a. A county shall not adopt or enforce county
4 legislation regulating a condition or activity occurring
5 on land used for the production, care, feeding, or housing
6 of animals unless the regulation of the production, care,
7 feeding, or housing of animals is expressly authorized by
8 state law. County legislation adopted in violation of this
9 section is void and unenforceable and any enforcement activity
10 conducted in violation of **this section** is void. A condition
11 or activity occurring on land used for the production, care,
12 feeding, or housing of animals includes but is not limited to
13 the construction, operation, or management of an animal feeding
14 operation, an animal feeding operation structure, or aerobic
15 structure, and to the storage, handling, or application of
16 manure or egg washwater.

17 b. Paragraph "a" does not apply to a confinement feeding
18 operations siting ordinance as provided in section 459.305A.

19 Sec. 2. Section 335.2, Code 2019, is amended to read as
20 follows:

21 **335.2 Farms exempt.**

22 1. Except to the extent required to implement section
23 335.27, no ordinance adopted under **this chapter** applies to
24 land, farm houses, farm barns, farm outbuildings or other
25 buildings or structures which are primarily adapted, by reason
26 of nature and area, for use for agricultural purposes, while
27 so used. However, the ordinances may apply to any structure,
28 building, dam, obstruction, deposit or excavation in or on the
29 flood plains of any river or stream.

30 2. Subsection 1 does not apply to a confinement feeding
31 operations siting ordinance as provided in section 459.305A.

32 Sec. 3. NEW SECTION. **459.305A County control of siting.**

33 1. A county may adopt a confinement feeding operations
34 siting ordinance. The purpose of the ordinance is to allow
35 the county board of supervisors to approve or disapprove

1 the location of any construction, including expansion, of a
2 confinement feeding operation within the county.

3 2. A person shall not construct a confinement feeding
4 operation in a county that has adopted a confinement feeding
5 operations siting ordinance until the county board of
6 supervisors has approved the location of the confinement
7 feeding operation in a manner and according to procedures
8 required in the ordinance.

9 a. The county board of supervisors may subject its
10 approval to conditions for the construction or operation of
11 the confinement feeding operation or the application of manure
12 originating from the confinement feeding operation.

13 b. A person required to be issued a permit by the department
14 for the construction of a confinement feeding operation as
15 provided in section 459.303 must be issued such permit prior to
16 obtaining approval by the county board of supervisors.

17 c. A county board of supervisors may base its approval or
18 disapproval on factors other than factors considered by the
19 department when approving or disapproving an application to
20 construct the confinement feeding operation.

21 3. A county may adopt county legislation necessary to
22 effectuate the purposes of this section notwithstanding section
23 331.304A or 335.2.

24 EXPLANATION

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

27 This bill in part amends provisions in Code chapter 459 which
28 authorize the department of natural resources to issue permits
29 for the construction or expansion of structures associated with
30 a confinement feeding operation.

31 The bill provides that a county may adopt a confinement
32 feeding operations siting ordinance which allows a county board
33 of supervisors to approve the site where the construction is
34 to occur. The board may place conditions on site approval if
35 the conditions relate to the construction or operation of the

1 confinement feeding operation or to manure application.

2 The bill provides that the county may adopt the ordinance
3 notwithstanding provisions in Code section 331.304A which
4 prohibits a county from adopting legislation that regulates
5 animal agriculture and Code section 335.2 which prohibits a
6 county from adopting an ordinance that provides for the zoning
7 of farm structures.