

House File 2178 - Introduced

HOUSE FILE 2178

BY STAED

A BILL FOR

1 An Act relating to confinement feeding operations, by providing
2 notice requirements for the removal and application of
3 manure from confinement feeding operations, making penalties
4 applicable, and including effective date provisions.

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

1 Section 1. NEW SECTION. 459.204C Liquid manure removal and
2 application — notice.

3 1. a. The owner or operator of a confinement feeding
4 operation shall not remove liquid manure from a manure storage
5 structure that is part of the confinement feeding operation if
6 the manure storage structure is located within two thousand
7 five hundred feet from an object or location for which a
8 separation distance is required pursuant to section 459.202,
9 unless the owner or operator delivers a manure management
10 notice to the titleholder of the land benefiting from the
11 separation distance and the department. The owner or operator
12 shall deliver the manure management notice at least forty-eight
13 hours prior to the time of removal. The manure management
14 notice shall state the name of the owner or operator, the
15 location of the confinement feeding operation, the estimated
16 number of gallons of liquid manure to be removed, and the dates
17 and hours that the liquid manure will be removed.

18 b. Sections 459.203 and 459.205 do not exempt an owner or
19 operator from the requirements of paragraph "a".

20 c. Paragraph "a" does not apply to the removal of less than
21 one hundred gallons of liquid manure during any one day, or to
22 the removal of manure due to an emergency.

23 2. a. A person shall not apply liquid manure from a
24 confinement feeding operation on land located within two
25 thousand five hundred feet from an object or location for which
26 a separation distance is required pursuant to section 459.204,
27 unless the owner delivers a manure management notice to the
28 titleholder of the land benefiting from the separation distance
29 and the department. The person shall deliver the notice to
30 the titleholder and the department at least forty-eight hours
31 prior to the time of application. The manure management notice
32 shall state the location of land where the liquid manure will
33 be applied, the approximate number of gallons of liquid manure
34 to be applied, and the dates and hours that the liquid manure
35 will be applied.

1 *b.* Paragraph "a" does not require a manure management notice
2 to be delivered to a person who holds a legal or equitable
3 interest in the land where the liquid manure is applied.

4 *c.* Paragraph "a" does not apply to the application of less
5 than one hundred gallons of liquid manure during any one day,
6 or to the application of manure due to an emergency.

7 3. The titleholder of land benefiting from the separation
8 distance may designate an alternative person to receive the
9 notice. The designation of the alternative person shall be
10 effective when the titleholder delivers a statement making
11 the designation to the person required to provide the manure
12 management notice and to the department.

13 4. A person may deliver a manure management notice or
14 statement designating an alternative as provided in this
15 section by any method of communication approved by the
16 department, if that method is recognized in commercial
17 practice, including in person, by mail, by a commercial
18 service, or by electronic mail.

19 Sec. 2. Section 459.312, subsection 10, Code 2020, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. *i.* The person required to submit the manure
22 management plan is in compliance with the requirements for
23 delivering manure management notices as provided in section
24 459.204C.

25 Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate
26 importance, takes effect upon enactment.

27

EXPLANATION

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

30 NOTICE REQUIREMENTS. This bill provides that the
31 titleholder of land where a benefited object or location is
32 situated and the department of natural resources (DNR) must
33 be notified at least 48 hours before liquid manure is to be
34 removed from a manure storage structure associated with a
35 confinement feeding operation (operation) or when liquid manure

1 originating from the operation is to be applied to land. The
2 titleholder may provide that an alternative person (e.g., a
3 lessor) be notified. The notice requirement is triggered when
4 the benefited object or location is at least 2,500 feet away
5 from the structure or application site. In the case of manure
6 removal, the notice must be delivered by the operation's owner
7 or operator, and in the case of manure application, the notice
8 must be delivered by the person applying the liquid manure,
9 which could include a commercial manure service (Code section
10 459.314A). The bill provides exceptions if less than 100
11 gallons of liquid manure are removed or applied during any one
12 day, or if there is an emergency. The bill also provides that a
13 manure management plan (MMP) must include a statement that the
14 filer is in compliance with the notice requirements.

15 BACKGROUND. Code chapter 459 applies to operations in
16 which agricultural animals are maintained for at least 45
17 days in any 12-month period in areas which are totally roofed
18 (Code section 459.102). The Code chapter is divided into a
19 number of subchapters including subchapter II which regulates
20 air quality and imposes separation distances benefiting
21 certain objects or locations including residences, commercial
22 enterprises, religious institutions, educational institutions,
23 and public use areas (Code section 459.202); and subchapter
24 III which regulates water quality including by requiring
25 certain persons to file MMPs with the DNR, including owners of
26 operations and persons applying manure on land (Code section
27 459.312). Generally, an operation must retain manure that
28 is produced at the location until the manure is transported
29 and used according to water quality requirements (e.g., via
30 application on farmland) (see Code section 459.311). Liquid
31 manure is animal excreta or other commonly associated wastes of
32 animals that flows perceptibly under pressure, is capable of
33 being transported through a pumping device, and is composed on
34 molecules flowing freely under stress (Code section 459.102).
35 An MMP refers to both an original document and a document which

1 updates the original plan. An updated plan must be submitted
2 to DNR on an annual basis (Code section 459.312).

3 APPLICABLE CIVIL PENALTIES. Code section 459.602 provides
4 for civil penalties that may be assessed for violations of
5 air quality requirements under Code chapter 459, subchapter
6 II. A violator is subject to Code section 455B.109, which
7 provides for the administrative assessment of civil penalties
8 of up to \$10,000. Code section 459.603 provides for civil
9 penalties that may be assessed for violations of water quality
10 requirements under Code chapter 459, subchapter III. A
11 violator is subject to either Code section 455B.109, providing
12 for the administrative assessment of civil penalties, or Code
13 section 455B.191, which provides for a general civil penalty
14 assessed judicially of up to \$5,000.

15 EFFECTIVE DATE. The bill takes effect upon enactment.