

House File 407 - Introduced

HOUSE FILE 407

BY STAED

A BILL FOR

1 An Act relating to confinement feeding operations, including
2 by establishing a moratorium, requiring the department of
3 natural resources to adjust compliance fees, requiring the
4 department to submit a report to the general assembly,
5 making penalties applicable, and including effective date
6 provisions.

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

1 Section 1. NEW SECTION. 459.104 Moratorium — confinement
2 feeding operations.

3 1. a. Notwithstanding sections 459.303 and 459.304, the
4 department shall not accept or approve an application for a
5 permit to construct a confinement feeding operation structure
6 that is a part of a confinement feeding operation.

7 b. A person shall not begin construction of a confinement
8 feeding operation structure that is a part of a confinement
9 feeding operation.

10 2. Subsection 1 does not apply to any of the following:

11 a. A confinement feeding operation structure that is part
12 of a confinement feeding operation that has an animal unit
13 capacity of 300 or fewer animal units.

14 b. A confinement feeding operation structure, if
15 construction of the structure began prior to the effective date
16 of this Act.

17 c. The construction of an egg washwater storage structure
18 that is part of the confinement feeding operation.

19 d. The construction of a dry bedded confinement feeding
20 operation structure that is part of a dry bedded confinement
21 feeding operation as provided in chapter 459B.

22 e. The construction of a confinement feeding operation
23 structure, for which a variance has been granted. However, in
24 order to grant a variance, the department must determine that
25 all of the following apply:

26 (1) The confinement feeding operation structure replaces an
27 existing confinement feeding operation structure.

28 (2) The animal weight capacity or animal unit capacity,
29 whichever is applicable, of the confinement feeding operation
30 is not increased.

31 (3) The capacity of all manure storage structures is not
32 increased.

33 (4) An unformed manure storage structure does not replace an
34 existing manure storage structure.

35 (5) The construction of a replacement formed manure storage

1 structure that complies with standards established pursuant to
2 section 459.307.

3 (6) The construction of the confinement feeding operation
4 structure complies with all applicable requirements that would
5 otherwise apply to the construction.

6 (7) The replacement confinement feeding operation structure
7 if it is more likely than not to provide a higher degree of
8 environmental protection than the replaced confinement feeding
9 operation structure.

10 *j.* The replaced confinement feeding operation structure must
11 be closed as required by the department, but not later than
12 six months after the replacement confinement feeding operation
13 structure is constructed.

14 3. *a.* For purposes of this section, the construction of
15 a confinement feeding operation includes the expansion of the
16 structure.

17 *b.* Notwithstanding sections 459.201 and 459.301, for
18 purposes of this section, a confinement feeding operation
19 structure begins construction when a concrete foundation or
20 floor of a structure has been poured.

21 **Sec. 2. NEW SECTION. 459.105 Proposed budget — annual**
22 **stakeholder meeting.**

23 1. The department shall prepare a proposed budget for each
24 fiscal year beginning on or after July 1, 2019, that includes
25 all of the following:

26 *a.* The amount of all moneys appropriated or available to
27 fully support the department's administration and enforcement
28 of this chapter for the following fiscal year.

29 *b.* Any necessary adjustment to the amount of one or more
30 compliance fees described in section 459.400 for deposit in
31 the animal agriculture compliance fund as provided in section
32 459.401. However, this subsection does not require that any
33 account in the fund have a zero ending balance at the end of the
34 fiscal year.

35 *c.* An estimate of all expenditures from the animal

1 agriculture compliance fund to be expended for reasonable
2 direct and indirect costs of fully administering and enforcing
3 this chapter.

4 2. The department shall invite interested persons to
5 participate as stakeholders and convene an annual stakeholder
6 meeting prior to June 1 to review the department's proposed
7 budget for the following fiscal year. The department shall
8 consider any recommendations of the stakeholders when computing
9 its final budget for the following fiscal year. A person
10 attending a stakeholder meeting is not entitled to receive
11 a per diem as specified in section 7E.6 and shall not be
12 reimbursed for expenses incurred while attending the meeting.

13 3. Notwithstanding section 459.400, the department
14 shall establish a final annual budget for the fiscal year,
15 including any adjustments to the fee amounts, based on its
16 estimated budget and after considering any recommendations of
17 stakeholders at the annual stakeholder meeting.

18 4. The department shall prepare a report to be submitted
19 to the governor and general assembly not later than January
20 4, 2021, that recommends the appropriate amount of moneys
21 required to pay for all reasonable direct and indirect costs of
22 administering and enforcing this chapter.

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

25 EXPLANATION

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

28 GENERAL. This bill amends Code chapter 459 (the "Animal
29 Agriculture Compliance Act") regulated by the department of
30 natural resources (DNR) by establishing a moratorium upon the
31 construction, including expansion, of a confinement feeding
32 operation structure (structure) such as buildings or manure
33 storage structure associated with a confinement feeding
34 operation (operation). The degree of regulation is based on
35 a number of factors including the date the operations were

1 established, the type of structure being constructed, and
2 the operation's size determined according to its animal unit
3 capacity (AUC). The bill also requires DNR to establish
4 an annual budget that provides for fully administering
5 and enforcing the Code chapter, including by adjusting the
6 statutory amount assessed for each compliance fee (fee) that is
7 deposited in the animal agriculture compliance fund (fund).

8 MORATORIUM. The moratorium applies to DNR's acceptance or
9 approval of applications for permits to construct a structure
10 and to the construction of such structure (when concrete
11 is poured to form its floor or foundation) regardless of
12 whether a permit has been issued. A number of exceptions
13 apply, including for operations having an AUC of 300 or fewer
14 animal units, dry bedded confinement feeding operations (where
15 manure is stored as dry bedded manure rather than liquid), the
16 construction of an egg washwater storage structure, and the
17 construction of a structure pursuant to a variance granted by
18 DNR for a replacement structure so long as the operation's
19 AUC or its manure storage capacity is not increased, and the
20 structure provides a higher degree of environmental protection
21 than the replaced structure.

22 DNR ANNUAL BUDGET AND REPORT. The bill requires DNR to
23 prepare an estimated budget that calculates the total amount
24 of moneys appropriated and available to fully fund DNR's
25 administration and enforcement of the Code chapter for each
26 fiscal year beginning on or after July 1, 2019. The estimated
27 budget must include any necessary adjustment to the amount of
28 fees it assesses for deposit in the fund. DNR is required to
29 conduct an annual stakeholder meeting held prior to June 1 of
30 each year in order to consider DNR's estimated budget which
31 becomes final on July 1, the beginning of the next fiscal year.
32 DNR must submit a report to the governor and general assembly
33 by January 4, 2021, that includes a recommendation for an
34 appropriate funding level.

35 PENALTIES APPLICABLE. A person who violates subchapter III

1 of the Code chapter, regulating water quality, is subject to
2 a range of civil penalties not to exceed \$10,000, which is
3 administratively enforced by DNR under the Iowa administrative
4 procedures Act (Code chapter 17A). Alternatively, a judicial
5 action may be brought against a person by the attorney general
6 with a civil penalty not to exceed \$5,000 for each day of such
7 violation (Code section 459.603 referring to Code sections
8 455B.109 and 455B.191).

9 EFFECTIVE DATE. The bill, if enacted, would take effect upon
10 enactment.