

House File 2417 - Introduced

HOUSE FILE 2417
BY CROKEN

A BILL FOR

1 An Act relating to animal feeding operations by providing for
2 certain air and water quality regulations, including when two
3 or more related confinement feeding operations are deemed
4 to be a single operation, making penalties applicable, and
5 including effective date and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 459.102, Code 2026, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 9A. a. "Business entity" means a person
4 recognized as a partnership, limited partnership, or limited
5 liability limited partnership described in chapter 486A or
6 488; a limited liability company as described in chapter
7 489; a corporation as described in chapter 490, 491, or
8 504; an association as described in chapter 497, 498, or
9 499; a cooperative described in chapter 501; a cooperative
10 association described in chapter 501A; an unincorporated
11 nonprofit association as described in chapter 504; or any other
12 entity commonly referred to as an investment company, joint stock
13 company, joint stock association, or trust, including but not
14 limited to a business trust.

15 b. "Business entity" includes a person described in paragraph
16 "a" regardless of whether the person is formed in this state
17 under any of those provisions referred to in paragraph "a" or
18 is otherwise authorized to do or transact business in this state
19 under any of those provisions referred to in paragraph "a".

20 NEW SUBSECTION. 42A. "Operation of law" means a transfer by
21 inheritance, devise or bequest, court order, dissolution decree,
22 order in bankruptcy, insolvency, replevin, foreclosure, execution
23 sale, the execution of a judgment, the foreclosure of a real
24 estate mortgage, the forfeiture of a real estate contract, or a
25 transfer resulting from a decree for specific performance.

26 Sec. 2. Section 459.201, subsection 1, Code 2026, is amended
27 by striking the subsection and inserting in lieu thereof the
28 following:

29 1. Two or more animal feeding operations under common
30 ownership or management are deemed to be a single animal feeding
31 operation if they are adjacent or utilize a common system for
32 manure storage. In addition, two or more related confinement
33 feeding operations are deemed to be a single confinement feeding
34 operation as provided in section 459.201A.

35 Sec. 3. Section 459.201, subsection 3, Code 2026, is amended

1 to read as follows:

2 3. a. In calculating the animal unit capacity of a
3 confinement feeding operation, the animal unit capacity shall
4 include the animal unit capacity of all confinement feeding
5 operation buildings ~~which~~ that are part of the confinement
6 feeding operation, unless a confinement feeding operation
7 building has been abandoned.

8 b. Unless expressly stated otherwise in this subchapter, the
9 animal units of all confinement feeding operations that are
10 related and deemed to be a single confinement feeding operation
11 shall be combined when calculating the animal unit capacity of
12 any one of the confinement feeding operations.

13 Sec. 4. NEW SECTION. **459.201A Special terms — related**
14 **confinement feeding operations.**

15 Two or more confinement feeding operations are related and
16 deemed to be a single confinement feeding operation if all of the
17 following apply:

18 1. A confinement feeding operation structure that is part
19 of one confinement feeding operation is separated by less
20 than two thousand five hundred feet from a confinement feeding
21 operation structure that is part of the other confinement feeding
22 operation.

23 2. Any of the following apply:

24 a. The confinement feeding operations utilize a common system
25 for manure storage or common area or system for manure disposal.

26 b. The confinement feeding operations both utilize any of the
27 following:

28 (1) A privately owned road capable of use by a motor vehicle
29 having a gross weight of six tons or more.

30 (2) A private water well regardless of whether the water well
31 is used to access water for human consumption.

32 (3) A utility connection that directly connects the
33 confinement feeding operations.

34 (4) Any other personal property owned or used by the
35 confinement feeding operations as provided by rule adopted by the

1 department.

2 c. The same person holds an interest in the real property
3 where the confinement feeding operations are sited. The person
4 may hold a legal interest or equitable interest in the real
5 property.

6 (1) In determining whether the same person holds an interest
7 in the real property where the two confinement feeding operations
8 are sited, an interest in the real property may be held by the
9 person in any of the following forms:

10 (a) Legal title, including as a joint tenant or tenant in
11 common, or the holder of an interest for life or term of years.

12 (b) Leasehold, including as a lessor or lessee.

13 (c) Real estate contract, including in cases in which the
14 person is a vendor or vendee.

15 (d) Equitable title, including as a settlor, trustee, or
16 beneficiary.

17 (e) Easement, including as the owner of the dominant estate
18 or servient estate.

19 (2) If the person is a business entity, the business entity's
20 interest in the real property is attributable to any of the
21 following:

22 (a) A partner, limited partner, member, shareholder, settlor,
23 trustee, beneficiary, or other equity holder of the business
24 entity.

25 (b) Any officer, manager, or employee of the business entity.

26 (3) A person's real property interest is attributable to
27 the person's spouse, parent, grandparent, lineal ascendant of
28 a grandparent or spouse and any other lineal descendant of the
29 grandparent or spouse, sibling, or a person acting in a fiduciary
30 capacity for a related person.

31 (4) A subsidiary or affiliate of a business entity shall be
32 deemed to be the same business entity.

33 (5) A person's interest in a fixture that is attached to the
34 real property where a confinement feeding operation is sited,
35 including a confinement feeding operation structure, shall be

1 deemed to be an interest in the confinement feeding operation.

2 (6) A person's property interest does not include the
3 acquisition of property by any of the following:

4 (a) Operation of law.

5 (b) A bona fide encumbrance taken for purposes of security,
6 including but not limited to a mortgage or deed of trust.

7 (c) Under a contract in which the other party is a government
8 entity.

9 Sec. 5. Section 459.203, unnumbered paragraph 1, Code 2026,
10 is amended to read as follows:

11 A confinement feeding operation constructed or expanded prior
12 to the date that a distance requirement became effective under
13 section 459.202 and ~~which~~ that does not comply with the section's
14 distance requirement may continue to operate regardless of the
15 distance requirement. The In addition and except as provided
16 in section 459.203A, such confinement feeding operation may
17 be expanded by the construction or expansion of a confinement
18 feeding operation structure, if any of the following applies:

19 Sec. 6. NEW SECTION. 459.203A Related confinement feeding
20 operations deemed to be same operation — expansion of
21 confinement feeding operations.

22 1. If two or more confinement feeding operations are related
23 and deemed to be a single confinement feeding operation pursuant
24 to sections 459.201 and 459.201A, neither confinement feeding
25 operation shall be expanded by the construction or expansion of a
26 confinement feeding operation structure on or after the effective
27 date of this Act, unless the confinement feeding operation
28 structure complies with the distance requirements applying to
29 that structure as provided in section 459.202, subsections 4 and
30 5.

31 2. Notwithstanding subsection 1, a confinement feeding
32 operation structure may be expanded by replacing one or more
33 unformed manure storage structures with one or more formed manure
34 storage structures, if all of the following apply:

35 a. The animal weight capacity or animal unit capacity,

1 whichever is applicable, is not increased for that portion of
2 the confinement feeding operation that utilizes all replacement
3 formed manure storage structures.

4 b. The use of each replaced unformed manure storage structure
5 is discontinued within one year after the construction of the
6 replacement formed manure storage structure.

7 c. The capacity of all replacement formed manure storage
8 structures does not exceed the capacity required to store
9 manure produced by that portion of the confinement feeding
10 operation that had utilized all replaced unformed manure storage
11 structures.

12 d. The replacement formed manure storage structure is not
13 closer to an object or location benefiting from a separation
14 distance than the separation distance between the replaced
15 unformed manure storage structure and the same object or location
16 as required in section 459.202.

17 Sec. 7. NEW SECTION. **459.203B Business entity — report.**

18 A business entity that holds an interest in real property
19 where a confinement feeding operation is located shall submit a
20 report to the department under this subchapter not later than
21 December 31 of each year. The business entity shall state
22 whether the confinement feeding operation is related to another
23 confinement feeding operation as provided in section 459.203A.
24 The business entity shall submit a list of names of any persons
25 who have an attributable interest in the real property where the
26 confinement feeding operation is located regardless of whether
27 the business entity states the confinement feeding operation is
28 related to another confinement feeding operation.

29 Sec. 8. Section 459.205, subsection 1, Code 2026, is amended
30 to read as follows:

31 1. a. A confinement feeding operation structure, if the
32 structure is part of a confinement feeding operation which that
33 qualifies as a small animal feeding operation. However, this
34 subsection shall not apply if the confinement feeding operation
35 structure is an unformed manure storage structure.

1 b. Paragraph "a" does not apply to any of the following:

2 (1) A confinement feeding operation that includes an unformed
3 manure storage structure.

4 (2) Two or more animal feeding operations that are deemed
5 to be a single animal feeding operation under section 459.201,
6 if the combined animal unit capacity of the confinement feeding
7 operations is more than five hundred animal units.

8 c. Two or more related confinement feeding operations that
9 are deemed to be a single confinement feeding operation under
10 sections 459.201 and 459.201A, if the combined animal unit
11 capacity of the related confinement feeding operations is more
12 than five hundred animal units.

13 Sec. 9. Section 459.301, subsection 1, Code 2026, is amended
14 by striking the subsection and inserting in lieu thereof the
15 following:

16 1. Two or more animal feeding operations under common
17 ownership or management are deemed to be a single animal feeding
18 operation if any of the following apply:

19 a. The animal feeding operations are adjacent or utilize a
20 common area or system for manure application.

21 b. The confinement feeding operations are deemed to be a
22 single confinement feeding operation in the same manner as two
23 confinement feeding operations are determined to be related under
24 section 459.201A.

25 Sec. 10. Section 459.301, subsection 3, Code 2026, is amended
26 by adding the following new paragraph:

27 NEW PARAGRAPH. c. Unless expressly stated otherwise in
28 this subchapter, the animal units of all confinement feeding
29 operations that are related and deemed to be the same confinement
30 feeding operation shall be combined when calculating the animal
31 unit capacity of any one of the confinement feeding operations.

32 Sec. 11. NEW SECTION. **459.301A Business entity — report.**

33 A business entity that holds an interest in real property
34 where a confinement feeding operation is located shall submit a
35 report to the department under this subchapter not later than

1 December 31 of each year. The business entity shall state
2 whether the confinement feeding operation is related to another
3 confinement feeding operation as provided in section 459.301.
4 The business entity shall submit a list of names of any persons
5 who have an attributable interest in the real property where the
6 confinement feeding operation is located regardless of whether
7 the business entity states the confinement feeding operation is
8 related to another confinement feeding operation. The department
9 shall adopt rules providing for the combination of reports
10 required in section 459.203B and this section.

11 Sec. 12. Section 459.312, subsection 2, Code 2026, is amended
12 to read as follows:

13 2. a. Not more than one confinement feeding operation shall
14 be covered by a single manure management plan.

15 b. If two or more confinement feeding operations are deemed
16 to be a single confinement feeding operation under section
17 459.301, the department may require a separate manure management
18 plan to cover each confinement feeding operation.

19 Sec. 13. Section 459.317, subsection 1, paragraph b, Code
20 2026, is amended by striking the paragraph.

21 Sec. 14. EFFECTIVE DATE. This Act, being deemed of immediate
22 importance, takes effect upon enactment.

23 Sec. 15. APPLICABILITY. This Act shall not apply to a person
24 who has begun construction of a confinement feeding operation
25 structure prior to the effective date of this Act.

26 EXPLANATION

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

29 BACKGROUND — GENERAL. This bill amends the "Animal
30 Agriculture Compliance Act" (Code chapter 459), which provides
31 for the regulation of an animal feeding operation where
32 agricultural animals are maintained for at least 45 days in any
33 12-month period and includes an open feedlot and a confinement
34 feeding operation (operation) and any associated confinement
35 feeding operation structure (structure), such as a building or

1 manure storage structure. Compliance with a statutory regulation
2 under the Code chapter includes compliance with a rule adopted
3 by the department of natural resources (DNR) (Code section
4 459.1030). Generally, regulations vary based on the size of an
5 operation measured by its animal unit capacity (AUC).

6 BACKGROUND — ADJACENCY. For purposes of air quality
7 regulation, two or more animal feeding operations under common
8 ownership or management are deemed to be a single animal feeding
9 operation if they are adjacent or utilize a common system for
10 manure storage and are separated within a minimum distance from
11 each other based on the size of the operation. For purposes of
12 water quality regulation, two or more animal feeding operations
13 under common ownership or management are deemed to be a single
14 operation if they are adjacent or utilize a common area or
15 system for manure disposal and are separated by another set of
16 separation distances based on the size of the operation.

17 BACKGROUND — AUC. AUC refers to a measurement used to
18 determine the maximum number of animal units that may be
19 maintained as part of an animal feeding operation at any one
20 time. In calculating AUC, a special equivalency factor is
21 assigned for each classification of confined animal.

22 BILL'S PROVISIONS — RELATED CONFINEMENT FEEDING
23 OPERATION. The bill provides that for purposes of administering
24 and enforcing Code chapter 459, subchapter II, providing for
25 air quality regulations and Code chapter 459, subchapter III,
26 providing for water quality regulations, two or more operations
27 are deemed to be a single operation if they are related. The
28 operations are related if a structure that is part of one
29 operation is separated by less than 2,500 feet from a structure
30 that is part of the other operation and certain alternative
31 conditions apply. The first condition occurs if the confinement
32 feeding operations utilize some common method of manure storage
33 or common area or system for manure disposal. The second
34 condition occurs when the confinement feeding operations utilize
35 a common item or service such as a private road, private water

1 well, utility connection, or other personal property described
2 by DNR rule. The third condition occurs when the same person
3 holds a legal or equitable interest in the real property where
4 the operations are located. If the person is a business entity,
5 the business entity's interest is attributable to any person who
6 owns an interest in the entity or who is a partner, limited
7 partner, shareholder, member, settlor, trustee, beneficiary, or
8 other equity holder of the business entity. The business
9 entity's interest is also attributable to any officer, manager,
10 or employee of the business entity. A person's interest is also
11 attributable to a relative (e.g., spouse, child, or sibling). A
12 person's interest does not include the acquisition of property by
13 a number of devices including by operation of law, an encumbrance
14 taken as a security, or under contract with a government entity.

15 The bill requires a business entity that holds an interest in
16 real property where a confinement feeding operation is located to
17 submit a report to DNR each year that includes a list of names
18 of any persons who have an attributable interest in the real
19 property where the confinement feeding operation is located.

20 APPLICABLE CIVIL PENALTIES. Code section 459.602 provides for
21 civil penalties that may be assessed for violations of Code
22 chapter 459, subchapter II (air quality regulations). A violator
23 is subject to Code section 455B.109, which provides for the
24 administrative assessment of civil penalties of up to \$10,000.
25 Code section 459.603 provides for civil penalties that may be
26 assessed for violations of Code chapter 459, subchapter III
27 (water quality regulations). A violator is subject to either
28 Code section 455B.109 providing for the administrative assessment
29 of civil penalties or Code section 455B.191, which provides for a
30 general civil penalty assessed judicially of up to \$5,000.

31 EFFECTIVE DATE. The bill takes effect upon enactment.