

Senate File 2258 - Introduced

SENATE FILE 2258
BY STAED

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 any of the following apply:

32 a. The animal feeding operations are located on adjacent land
33 or utilize a common area or system for manure application.

34 b. The animal feeding operations are related under section
35 459.201A.

1 Sec. 3. Section 459.201, subsection 3, Code 2026, is amended
2 to read as follows:

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

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

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

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

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

24 2. Any of the following apply:

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

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

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

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

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

35 (4) Any other personal property owned or used by the

1 confinement feeding operations as provided by rule adopted by the
2 department.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 including a confinement feeding operation structure, shall be
2 deemed to be an interest in the confinement feeding operation.

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

5 (a) Operation of law.

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

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

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

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

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

23 1. If two or more confinement feeding operations are related
24 and deemed to be a single confinement feeding operation pursuant
25 to sections 459.201 and 459.201A, neither confinement feeding
26 operation shall be expanded by the construction or expansion of a
27 confinement feeding operation structure on or after the effective
28 date of this Act, unless the confinement feeding operation
29 structure complies with the distance requirements applying to
30 that structure as provided in section 459.202, subsections 4 and
31 5.

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

1 a. The animal weight capacity or animal unit capacity,
2 whichever is applicable, is not increased for that portion of
3 the confinement feeding operation that utilizes all replacement
4 formed manure storage structures.

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

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

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

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

19 1. A business entity that holds an interest in real property
20 where a confinement feeding operation is located shall submit
21 a report to the department under this subchapter not later
22 than December 31 of each year. However, if a business entity
23 is submitting an application to the department for a permit
24 to construct, including expand, a confinement feeding operation
25 structure as provided in section 459.303, the business entity
26 shall submit the report with the application.

27 2. The business entity shall state whether the confinement
28 feeding operation is related to another confinement feeding
29 operation as provided in section 459.203A.

30 3. The business entity shall submit a list of names of any
31 persons who have an attributable interest in the real property
32 where the confinement feeding operation is located regardless
33 of whether the business entity states the confinement feeding
34 operation is related to another confinement feeding operation.

35 4. The report shall include the name of the business entity

1 described in subsection 1 and the percentage equity interest in
2 that business entity held by each named person. If the business
3 entity is a limited liability company, as provided in chapter
4 489, the company shall attach to the report a copy of those pages
5 of the company's operating agreement that identify the equity
6 position held by each member of the company.

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

9 1. a. A confinement feeding operation structure, if the
10 structure is part of a confinement feeding operation ~~which that~~
11 qualifies as a small animal feeding operation. ~~However, this~~
12 ~~subsection shall not apply if the confinement feeding operation~~
13 ~~structure is an unformed manure storage structure.~~

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

15 (1) A confinement feeding operation that includes an unformed
16 manure storage structure.

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

21 c. Two or more related confinement feeding operations that
22 are deemed to be a single confinement feeding operation under
23 sections 459.201 and 459.201A, if the combined animal unit
24 capacity of the related confinement feeding operations is more
25 than five hundred animal units.

26 Sec. 9. Section 459.301, 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 any of the following apply:

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

34 b. The confinement feeding operations are deemed to be a
35 single confinement feeding operation in the same manner as two

1 confinement feeding operations are determined to be related under
2 section 459.201A.

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

5 NEW PARAGRAPH. c. Unless expressly stated otherwise in
6 this subchapter, the animal units of all confinement feeding
7 operations that are related and deemed to be the same confinement
8 feeding operation shall be combined when calculating the animal
9 unit capacity of any one of the confinement feeding operations.

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

11 A business entity that holds an interest in real property
12 where a confinement feeding operation is located shall submit a
13 report to the department as provided in section 459.203B.

14 Sec. 12. Section 459.303, subsection 3, Code 2026, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. e. A new or updated report required to be
17 submitted to the department pursuant to section 459.203B.

18 Sec. 13. Section 459.312, subsection 2, Code 2026, is amended
19 to read as follows:

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

22 b. If two or more confinement feeding operations are deemed
23 to be a single confinement feeding operation under section
24 459.301, the department may require a separate manure management
25 plan to cover each confinement feeding operation.

26 Sec. 14. Section 459.317, subsection 1, paragraph b, Code
27 2026, is amended by striking the paragraph.

28 Sec. 15. EFFECTIVE DATE. This Act, being deemed of immediate
29 importance, takes effect upon enactment.

30 Sec. 16. APPLICABILITY. This Act shall not apply to a person
31 who has begun construction of a confinement feeding operation
32 structure prior to the effective date of this Act.

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EXPLANATION

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

1 BACKGROUND — GENERAL. This bill amends the "Animal
2 Agriculture Compliance Act" (Code chapter 459), which provides
3 for the regulation of an animal feeding operation where
4 agricultural animals are maintained for at least 45 days in any
5 12-month period and includes an open feedlot and a confinement
6 feeding operation (operation) and any associated confinement
7 feeding operation structure (structure), such as a building or
8 manure storage structure. Compliance with a statutory regulation
9 under the Code chapter includes compliance with a rule adopted
10 by the department of natural resources (DNR) (Code section
11 459.1030). Generally, regulations vary based on the size of an
12 operation measured by its animal unit capacity (AUC).

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

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

29 BILL'S PROVISIONS — RELATED CONFINEMENT FEEDING
30 OPERATION. The bill provides that for purposes of administering
31 and enforcing Code chapter 459, subchapter II, providing for
32 air quality regulations and Code chapter 459, subchapter III,
33 providing for water quality regulations, two or more operations
34 are deemed to be a single operation if they are (1) under common
35 ownership or management and are located on adjacent land or

1 utilize a common area or system for manure application or (2)
2 they are related. The operations are related if a structure
3 that is part of one operation is separated by less than 2,500
4 feet from a structure that is part of the other operation
5 and certain alternative conditions apply. The first condition
6 occurs if the confinement feeding operations utilize some common
7 method of manure storage or common area or system for manure
8 disposal. The second condition occurs when the confinement
9 feeding operations utilize a common item or service such as a
10 private road, private water well, utility connection, or other
11 personal property described by DNR rule. The third condition
12 occurs when the same person holds a legal or equitable interest
13 in the real property where the operations are located. If the
14 person is a business entity, the business entity's interest is
15 attributable to any person who owns an interest in the entity or
16 who is a partner, limited partner, shareholder, member, settlor,
17 trustee, beneficiary, or other equity holder of the business
18 entity. The business entity's interest is also attributable
19 to any officer, manager, or employee of the business entity.
20 A person's interest is also attributable to a relative (e.g.,
21 spouse, child, or sibling). A person's interest does not include
22 the acquisition of property by a number of devices including by
23 operation of law, an encumbrance taken as a security, or under
24 contract with a government entity.

25 The bill requires a business entity that holds an interest in
26 real property where a confinement feeding operation is located
27 to submit a report to DNR each year that includes a list of
28 names of any persons who have an attributable interest in the
29 real property where the confinement feeding operation is located.
30 The report must include the name of the business entity and the
31 percentage equity interest in that business entity held by each
32 named person. The report must be part of any permit for the
33 construction or expansion of a confinement feeding operation.

34 APPLICABLE CIVIL PENALTIES. Code section 459.602 provides for
35 civil penalties that may be assessed for violations of Code

1 chapter 459, subchapter II (air quality regulations). A violator
2 is subject to Code section 455B.109, which provides for the
3 administrative assessment of civil penalties of up to \$10,000.
4 Code section 459.603 provides for civil penalties that may be
5 assessed for violations of Code chapter 459, subchapter III
6 (water quality regulations). A violator is subject to either
7 Code section 455B.109 providing for the administrative assessment
8 of civil penalties or Code section 455B.191, which provides for a
9 general civil penalty assessed judicially of up to \$5,000.
10 EFFECTIVE DATE. The bill takes effect upon enactment.

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