

MAR 1 2006

Agriculture

HOUSE FILE 2600

BY WHITAKER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing authority to a county board of supervisors to  
 2 establish a separation distance requirement between an animal  
 3 feeding operation maintaining swine and a structure which is  
 4 part of a swine farrowing and gestating operation, and  
 5 providing an effective date.

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

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HF 2600

1 Section 1. NEW SECTION. 459.203A SWINE FARROWING AND  
2 GESTATING OPERATIONS -- SPECIAL BIOSECURITY SEPARATION  
3 DISTANCES.

4 1. A county board of supervisors may adopt a swine  
5 biosecurity ordinance requiring a separation distance in feet  
6 between an animal feeding operation maintaining swine and a  
7 structure which houses more than twenty-five animal units and  
8 is part of a swine farrowing and gestating operation located  
9 in the county. If the animal feeding operation or the  
10 structure is located in a different county, the joint boards  
11 of supervisors of the different counties may adopt the  
12 biosecurity ordinance. On the effective date of the ordinance  
13 requiring a separation distance, except as provided in  
14 subsection 2 and section 459.205, the animal feeding operation  
15 shall not be established or expanded within that separation  
16 distance.

17 2. a. An animal feeding operation established or expanded  
18 prior to the date that a separation distance became effective  
19 as provided in a biosecurity ordinance and which does not  
20 comply with the separation distance may continue to operate  
21 regardless of the separation distance requirement.

22 b. An animal feeding operation may be expanded within a  
23 separation distance required in a biosecurity ordinance if the  
24 expansion is in accordance with the terms and conditions of a  
25 variance granted by the county board of supervisors which  
26 adopted the biosecurity ordinance.

27 Sec. 2. Section 459.205, subsection 3, Code 2005, is  
28 amended to read as follows:

29 3. a. A confinement feeding operation structure which is  
30 constructed or expanded within any distance from a any of the  
31 following:

- 32 (1) A residence, educational institution, commercial  
33 enterprise, or bona fide religious institution, city, or  
34 public-use-area, if the residence, educational institution,  
35 commercial enterprise, or bona fide religious institution was

1 constructed or expanded, ~~or the boundaries of the city or~~  
2 ~~public use area were expanded,~~ after the date that the  
3 confinement feeding operation was established.

4 (2) A city or public use area, if the boundaries of the  
5 city or public use area were expanded after the date that the  
6 confinement feeding operation was established.

7 (3) A swine farrowing and gestating operation, if the swine  
8 farrowing and gestating operation was constructed or expanded  
9 after the date that the confinement feeding operation was  
10 established.

11 b. The date the confinement feeding operation was  
12 established is the date on which the confinement feeding  
13 operation commenced operating. A change in ownership or  
14 expansion of the confinement feeding operation shall not  
15 change the established date of operation.

16 Sec. 3. Section 459.303, subsection 1, unnumbered  
17 paragraph 1, Code 2005, is amended to read as follows:

18 The department shall approve or disapprove applications for  
19 permits for the construction, including the expansion, of  
20 confinement feeding operation structures, as provided by rules  
21 adopted pursuant to this chapter. ~~The department's decision~~  
22 to department shall approve or disapprove a permit for the  
23 construction of a confinement feeding operation structure  
24 ~~shall be~~ based on whether the application is submitted  
25 according to procedures required by the department and the  
26 application meets the requirements of this chapter, including  
27 standards established by the department and separation  
28 distance requirements for the construction and expansion of  
29 confinement feeding operation structures. A person shall not  
30 begin construction of a confinement feeding operation  
31 structure requiring a permit under this section, unless the  
32 department first approves the person's application and issues  
33 to the person a construction permit. The department shall  
34 provide conditions for requiring when a person must obtain a  
35 construction permit.



1 new separation distance requirement which benefits a  
2 confinement building which is part of a swine farrowing and  
3 gestating operation housing more than 25 animal units.  
4 Specifically, the bill provides that a county board of  
5 supervisors may adopt an ordinance (referred to as a  
6 biosecurity ordinance) that establishes a separation distance  
7 between an animal feeding operation maintaining swine and a  
8 structure where sows and litters are housed. It provides that  
9 such a separation requirement does not prohibit the status of  
10 an animal feeding operation existing on the effective date  
11 that the requirement became effective as provided in the  
12 biosecurity ordinance. The bill provides that a county board  
13 of supervisors may grant a variance to allow construction or  
14 expansion within the separation distance. Code section  
15 459.205 applies so that small animal feeding operations are  
16 exempt from separation distance requirements. Similarly, Code  
17 section 459.205 applies so that a neighboring landowner  
18 benefiting from a separation distance may execute a waiver to  
19 allow construction or expansion of a confinement feeding  
20 operation structure within the separation distance. Finally,  
21 the bill provides that a separation distance requirement does  
22 not apply when the swine farrowing and gestating operation  
23 constructs or expands within an existing separation distance.

24 The bill takes effect upon enactment.

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