



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 1272

2 AMENDMENT NO. _____. Amend Senate Bill 1272 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Livestock Management Facilities Act is
5 amended by changing Sections 11 and 20 as follows:

6 (510 ILCS 77/11)

7 Sec. 11. Filing notice of intent to construct and
8 construction data; registration of facilities.

9 (a) An owner or operator shall file a notice of intent to
10 construct for a livestock management facility or livestock
11 waste handling facility with the Department prior to
12 construction to establish a base date, which shall be valid for
13 one year, for determination of setbacks in compliance with
14 setback distances or, in the case of construction that is not a
15 new facility, with the maximum feasible location requirements
16 of Section 35 of this Act.

1 (b) For a livestock waste handling facility that is not
2 subject to Section 12 of this Act, a construction plan of the
3 waste handling structure with design specifications of the
4 structure noted as prepared by or for the owner or operator
5 shall be filed with the Department at least 10 calendar days
6 prior to the anticipated dates of construction. Upon receipt of
7 the notice of intent to construct form or the construction
8 plan, the Department shall review the documents to determine if
9 all information has been submitted or if clarification is
10 needed. The Department shall, within 15 calendar days of
11 receipt of a notice of intent to construct or the construction
12 plan, notify the owner or operator that construction may begin
13 or that clarification is needed.

14 (c) For a livestock waste handling facility that is subject
15 to Section 12 of this Act, a completed registration shall be
16 filed with the Department at least 37 calendar days prior to
17 the anticipated dates of construction. The registration shall
18 include the following:

19 (i) the name and address of the owner and operator of
20 the livestock waste handling facility;

21 (ii) a general description of the livestock waste
22 handling structure and the type and number of the animal
23 units of livestock it serves;

24 (iii) the construction plan of the waste handling
25 structure with design specifications of the structure
26 noted as prepared by or for the owner or operator; ~~and~~

1 (iv) anticipated dates of construction; ~~and~~

2 (v) a waste management plan that complies with the
3 requirements for handling, storing, and disposing of
4 livestock waste under rules adopted under the
5 Environmental Protection Act concerning
6 agriculture-related pollution.

7 The Department shall, within 15 calendar days of receipt of
8 the registration form, notify the person submitting the form
9 that the registration is complete or that clarification
10 information is needed.

11 (d) Any owner or operator who fails to file a notice of
12 intent to construct form or construction plans with the
13 Department prior to commencing construction, upon being
14 discovered by the Department, shall be subject to an
15 administrative hearing by the Department. The administrative
16 law judge, upon determination of a failure to file the
17 appropriate form, shall impose a civil administrative penalty
18 in an amount no more than \$1,000 and shall enter an
19 administrative order directing that the owner or operator file
20 the appropriate form within 10 business days after receiving
21 notice from the Department. If, after receiving the
22 administrative law judge's order to file, the owner or operator
23 fails to file the appropriate form with the Department, the
24 Department shall impose a civil administrative penalty in an
25 amount no less than \$1,000 and no more than \$2,500 and shall
26 enter an administrative order prohibiting the operation of the

1 facility until the owner or operator is in compliance with this
2 Act. Penalties under this subsection (d) not paid within 60
3 days of notice from the Department shall be submitted to the
4 Attorney General's office or an approved private collection
5 agency.

6 (Source: P.A. 91-110, eff. 7-13-99.)

7 (510 ILCS 77/20)

8 Sec. 20. Handling, storing and disposing of livestock
9 waste.

10 (a) The livestock management facility owner or operator
11 shall comply with the requirements for handling, storing, and
12 disposing of livestock wastes as set forth in the rules adopted
13 pursuant to the Illinois Environmental Protection Act
14 concerning agriculture related pollution.

15 (b) The ~~livestock management facility~~ owner or operator of
16 at a new livestock management facility of 300 or greater animal
17 units but less than 1,000 animal units shall not be required to
18 prepare and maintain a waste management plan prior to operation
19 of the facility and maintain it on file at the facility. An
20 existing livestock management facility subject to this
21 subsection (b) may be operated on an interim basis not to
22 exceed 6 months after the effective date of this amendatory Act
23 of the 100th General Assembly to allow for the owner or
24 operator of the facility to develop a waste management plan.
25 Waste management plans under this subsection (b) shall be

1 available for inspection during normal business hours by
2 Department personnel and be made available on a publicly
3 accessible website.

4 (c) The ~~livestock management facility~~ owner or operator at
5 a new livestock management facility of 1,000 or greater animal
6 units but less than 5,000 animal units shall prepare and submit
7 to the Department a waste management plan as part of the notice
8 of intent to construct process and maintain it on file at the
9 livestock management facility ~~a general waste management plan~~.
10 The plan shall be made available on a publicly accessible
11 website. Notwithstanding this requirement, an existing a
12 livestock management facility subject to this subsection (c)
13 may be operated on an interim basis ~~but~~ not to exceed 6 months
14 after the effective date of this amendatory Act of the 100th
15 General Assembly ~~the rules promulgated pursuant to this Act~~ to
16 allow for the owner or operator of the facility to develop a
17 waste management plan. The waste management plan shall be
18 available for inspection during normal business hours by
19 Department personnel.

20 (d) The livestock management facility owner or operator at
21 a facility of 5,000 or greater animal units shall prepare,
22 maintain, and submit to the Department the waste management
23 plan for approval. Approval of the waste management plan shall
24 be predicated on compliance with provisions of subsection (f).
25 The waste management plan shall be approved by the Department
26 before operation of the facility or in the case of an existing

1 facility, the waste management plan shall be submitted within
2 60 working days after the effective date of the rules
3 promulgated pursuant to this Act.

4 The owner or operator of an existing livestock management
5 facility that through growth meets or exceeds 5,000 animal
6 units shall file its waste management plan with the Department
7 within 60 working days after reaching the stated animal units.

8 The owner or operator of a livestock management facility
9 that is subject to this subsection (d) shall file within 60
10 working days with the Department a revised waste management
11 plan when there is a change as provided in subsection (e) of
12 this Section that will materially affect compliance with the
13 waste management plan.

14 (d-5) The owner or operator of multiple livestock
15 management facilities under common facility ownership where
16 the cumulative animal units of the facilities are equal to or
17 greater than the animal unit numbers provided for in subsection
18 (c) of this Section shall prepare and keep on file at each
19 facility a waste management plan in accordance with the
20 requirements of subsection (c). The owner or operator of
21 multiple livestock management facilities that are under common
22 facility ownership where the cumulative animal units of the
23 facilities are equal to or greater than the animal unit numbers
24 provided for in subsection (d) of this Section shall prepare
25 and file with the Department a waste management plan in
26 accordance with the provisions of subsection (d). Cumulative

1 animal units shall be determined by combining the animal units
2 of multiple livestock management facilities under the common
3 facility ownership based upon the design capacity of each
4 facility. For the purposes of this subsection (d-5), "under
5 common facility ownership" means the same person or persons
6 own, directly or indirectly, through majority owned business
7 entities at least 51% of any person or persons (as defined by
8 Section 10.55) that own or operate the livestock management
9 facility or livestock waste handling facility located in the
10 State of Illinois.

11 (e) The owner or operator of a livestock management
12 facility shall update the waste management plan when there is a
13 change in values shown in the plan under item (1) of subsection
14 (f) of this Section. The waste management plan and records of
15 livestock waste disposal shall be kept on file for three years.

16 (f) The application of livestock waste to the land is an
17 acceptable, recommended, and established practice in Illinois.
18 However, when livestock waste is not applied in a responsible
19 manner, it may create pollutional problems. It should be
20 recognized that research relative to livestock waste
21 application based on livestock waste nutrient content is
22 currently ongoing. The Dean of the College of Agricultural,
23 Consumer and Environmental Sciences at the University of
24 Illinois, or his or her designee, shall annually report to the
25 Advisory Committee on the status of phosphorus research,
26 including research that has been supported in whole or in part

1 by the Illinois Council on Food and Agricultural Research. The
2 Advisory Committee may also consult with other appropriate
3 research entities on the status of phosphorus research. It is
4 considered acceptable to prepare and implement a waste
5 management plan based on a nitrogen rate, unless otherwise
6 restricted by this Section. The waste management plan shall
7 include the following:

8 (1) An estimate of the volume of livestock waste to be
9 disposed of annually, which shall be obtained by
10 multiplying the design capacity of the facility by the
11 appropriate amount of waste generated by the animals. The
12 values showing the amount of waste generated in Table 2-1,
13 Midwest Plan Service's, MWPS-18, Livestock Waste
14 Management Facilities Handbook or Design Criteria for the
15 field application of livestock waste adopted by the Agency
16 may be used.

17 (2) The number of acres available for disposal of the
18 waste, whether they are owned by the owner or operator of
19 the livestock waste management facility or are shown to be
20 contracted with another person or persons for disposal of
21 waste.

22 (3) An estimate of the nutrient value of the waste. The
23 owner or operator may prepare a plan based on an average of
24 the minimum and maximum numbers in the table values derived
25 from Midwest Plan Service's, MWPS-18, Livestock Waste
26 Facilities Handbook, the Agency's Agriculture Related

1 Pollution regulations, or the results of analysis
2 performed on samples of waste. For the purposes of
3 compliance with this subsection, the nutrient values of
4 livestock waste may vary as indicated in the source table.
5 In the case of laboratory analytical results, the nutrient
6 values may vary with the accuracy of the analytical method.

7 (3.5) Results of the Bray P1 or Mehlich test for soil
8 phosphorus reported in pounds of elemental phosphorus per
9 acre. Soil samples shall be obtained and analyzed from the
10 livestock waste application fields on land owned or under
11 the control of the owner or operator where applications are
12 planned. Fields where livestock waste is applied shall be
13 sampled every 3 years. Sampling procedures, such as the
14 number of samples and the depth of sampling, as outlined in
15 the current edition of the Illinois Agronomy Handbook shall
16 be followed when soil samples are obtained.

17 (3.6) If the average Bray P1 or Mehlich test result for
18 soil phosphorus calculated from samples obtained from the
19 application field is 300 pounds or less of elemental
20 phosphorus per acre, livestock waste may continue to be
21 applied to that field in accordance with subsection (f) of
22 this Section. If the average Bray P1 or Mehlich test result
23 for soil phosphorus for an application field is greater
24 than 300 pounds of elemental phosphorus per acre, the owner
25 or operator shall apply livestock waste at the phosphorus
26 rate to the field until the average Bray P1 or Mehlich test

1 for soil phosphorus indicates there is less than 300 pounds
2 of elemental phosphorus per acre. Upon the development of a
3 phosphorus index that is approved subject to the provisions
4 established in Section 55 of this Act, the owner or
5 operator shall use such index in lieu of the 300 pounds of
6 elemental phosphorus per acre.

7 (4) An indication that the livestock waste will be
8 applied at rates not to exceed the agronomic nitrogen
9 demand of the crops to be grown when averaged over a 5-year
10 period.

11 (5) A provision that livestock waste applied within 1/4
12 mile of any residence not part of the facility shall be
13 injected or incorporated on the day of application.
14 However, livestock management facilities and livestock
15 waste handling facilities that have irrigation systems in
16 operation prior to the effective date of this Act or
17 existing facilities applying waste on frozen ground are not
18 subject to the provisions of this item (5).

19 (6) A provision that livestock waste may not be applied
20 within 200 feet of surface water unless the water is
21 upgrade or there is adequate diking, and waste will not be
22 applied within 150 feet of potable water supply wells.

23 (7) A provision that livestock waste may not be applied
24 in a 10-year flood plain unless the injection or
25 incorporation method of application is used.

26 (8) A provision that livestock waste may not be applied

1 in waterways.

2 (9) A provision that if waste is spread on frozen or
3 snow-covered land, the application will be limited to land
4 areas on which:

5 (A) land slopes are 5% or less, or

6 (B) adequate erosion control practices exist.

7 (10) Methods for disposal of animal waste.

8 (g) Any person who is required to prepare and maintain a
9 waste management plan and who fails to do so shall be issued a
10 warning letter by the Department for the first violation and
11 shall be given 30 working days to prepare a waste management
12 plan. For failure to prepare and maintain a waste management
13 plan, the person shall be fined an administrative penalty of up
14 to \$1,000 by the Department and shall be required to enter into
15 an agreement of compliance to prepare and maintain a waste
16 management plan within 30 working days. For failure to prepare
17 and maintain a waste management plan after the second 30 day
18 period or for failure to enter into a compliance agreement, the
19 Department may issue an operational cease and desist order
20 until compliance is attained.

21 (Source: P.A. 91-110, eff. 7-13-99; 92-16, eff. 6-28-01.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."