

CHAPTER 619—H.F.No. 2493

An act relating to agriculture; changing the law on nuisance liability of agricultural operations; establishing an advisory committee; providing for research and memorandums of agreement; clarifying terms; authorizing a livestock expansion loan program; changing loan procedures; regulating animal lots; establishing a demonstration program; changing pesticide posting laws; amending Minnesota Statutes 1992, sections 18B.07, subdivision 3, as amended; 41B.02, by adding a subdivision; 116.07, subdivision 7; and 561.19, subdivisions 1 and 2; Minnesota Statutes 1993 Supplement, section 41B.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 17; and 41B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [17.136] ANIMAL FEEDLOTS; POLLUTION CONTROL; FEEDLOT AND MANURE MANAGEMENT ADVISORY COMMITTEE.

(a) The commissioner of agriculture and the commissioner of the pollution control agency shall establish a feedlot and manure management advisory committee to identify needs, goals, and suggest policies for research, monitoring, and regulatory activities regarding feedlot and manure management. In establishing the committee, the commissioner shall give first consideration to members of the existing feedlot advisory group.

(b) The committee must include representation from beef, dairy, pork, chicken, and turkey producer organizations. The committee shall not exceed 18 members, but must include representatives from at least three environmental organizations, eight livestock producers, and four experts in soil and water science, nutrient management, and animal husbandry, one member from an organization representing local units of government, one member from the senate, and one member from the house of representatives. In addition, the department of agriculture, the pollution control agency, board of water and soil resources, soil and water conservation districts, the federal Soil Conservation Service, the association of Minnesota counties, and the Agricultural Stabilization and Conservation Service shall serve on the committee as ex-officio nonvoting members.

(c) Persons who participated in activities of the feedlot advisory group existing on and before the effective date of this section must be allowed to speak at proceedings of the advisory committee. These persons hold nonvoting status and are not eligible for reimbursement of expenses under paragraph (h).

(d) The advisory committee shall elect a chair from its members. The department and the agency shall provide staff support to the committee.

(e) The commissioner of agriculture and the commissioner of the pollution control agency shall consult with the advisory committee during the development of any policies, rules, or funding proposals or recommendations relating to feedlots or feedlot-related manure management.

(f) The commissioner of agriculture shall consult with the advisory committee on establishing a list of manure management research needs and priorities.

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(g) The advisory committee shall advise the commissioners on other appropriate matters.

(h) Nongovernment members of the advisory committee shall receive expenses, in accordance with section 15.059, subdivision 6. The advisory committee expires on June 30, 1997.

Sec. 2. [17.138] MANURE MANAGEMENT RESEARCH AND MONITORING PRIORITIES; COORDINATION OF RESEARCH.

Subdivision 1. PRIORITIES. (a) The commissioner, in consultation with the commissioner of the pollution control agency and the feedlot and manure management advisory committee, shall develop and maintain a list of manure management research and monitoring needs and priorities.

(b) The commissioner shall solicit the needs and ideas of livestock producers and consult with producers in developing the list.

(c) The commissioner shall also consult with agricultural and environmental researchers, state and federal agencies, and other appropriate organizations to identify current efforts as well as to assist in the development of research and monitoring needs and priorities.

Subd. 2. COORDINATION OF RESEARCH. The commissioner shall coordinate manure management research and monitoring and make recommendations on manure management research and monitoring funding priorities to the legislature and other funding bodies.

Sec. 3. [17.139] MEMORANDUM OF AGREEMENT AMONG STATE AGENCIES ON INSPECTIONS OF AGRICULTURAL OPERATIONS.

The commissioner shall develop memorandums of agreement among all state and federal agencies that have authority to inspect property in agricultural use, as defined in section 17.81, subdivision 4, to ensure that reasonable and effective protocols are followed when inspecting sites in agricultural use. The memorandum shall specify procedures that address, but are not limited to, the following:

(1) when appropriate, advance notice to the agricultural use landowner or operator;

(2) procedures for notification of the inspection results or conclusions to the owner or operator; and

(3) special procedures as might be necessary, such as to prevent the introduction of diseases.

Sec. 4. Minnesota Statutes 1992, section 18B.07, subdivision 3, as amended by Laws 1994, chapter 482, section 1, is amended to read:

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Subd. 3. **POSTING.** (a) All fields receiving applications of pesticide(s) bearing the label statement "Notify workers of the application by warning them orally and by posting signs at entrances to treated areas" must be posted in accordance with labeling and rules adopted under this chapter.

(b) Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment. The posting must be done in accordance with labeling and rules adopted under this chapter.

(c) If federal worker protection standards are not applicable, soil applied insecticides are exempt from posting requirements.

Sec. 5. Minnesota Statutes 1992, section 41B.02, is amended by adding a subdivision to read:

Subd. 10a. LIVESTOCK EXPANSION. "Livestock expansion" means improvements to a livestock operation, including the purchase and construction or installation of improvements to land, buildings, and other permanent structures, including equipment incorporated in or permanently affixed to the land, buildings, or structures, which are useful for and intended to be used for the purpose of raising livestock.

Sec. 6. Minnesota Statutes 1993 Supplement, section 41B.03, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY FOR BEGINNING FARMER LOANS.** (a) In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$200,000 in 1991 and an amount in subsequent years which is adjusted for inflation by multiplying \$200,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first five years of the loan, if an approved program is available within 45 miles from the borrower's residence.

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The commissioner may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and has either a four-year degree in an agricultural program or certification as an adult farm management instructor; and

(8) agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located.

(b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is subject to penalty as determined by the authority.

Sec. 7. **[41B.045] LIVESTOCK EXPANSION LOAN PROGRAM.**

Subdivision 1. ESTABLISHMENT. The authority may establish, adopt rules for, and implement a loan program to finance livestock expansions in the state.

Subd. 2. LOAN PARTICIPATION. The authority may participate in a livestock expansion loan with an eligible lender to a livestock farmer who meets the requirements of section 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in a livestock operation. Participation is limited to 45 percent of the principal amount of the loan or \$100,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different from the interest rates and repayment terms of the lender's retained portion of the loan.

Subd. 3. SPECIFICATIONS. No loan may be made to refinance an existing debt. Each loan participation must be secured by a mortgage on real property and such other security as the authority may require.

Subd. 4. APPLICATION AND ORIGINATION FEE. The authority may impose a reasonable nonrefundable application fee for each application for a loan participation and an origination fee for each loan issued under the livestock expansion loan program. The origination fee initially shall be set at 1.5 percent and the application fee at \$50. The authority may review the fees annually and make adjustments as necessary. The fees must be deposited in the state treasury and credited to an account in the special revenue fund. Money in this account is appropriated to the commissioner for administrative expenses of the livestock expansion loan program.

Subd. 5. INTEREST RATE. The interest rate per annum on the livestock expansion loan participation must be at the rate of interest determined by the authority to be necessary to provide for the timely payment of principal and interest when due on bonds or other obligations of the authority issued under this chapter, to provide financing for loan participations made under the livestock expansion loan program, and to provide for reasonable and necessary costs of issuing, carrying, administering, and securing the bonds or notes and to pay the costs incurred and to be incurred by the authority in the implementation of the livestock expansion loan program.

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Sec. 8. Minnesota Statutes 1992, section 116.07, subdivision 7, is amended to read:

Subd. 7. **COUNTIES; PROCESSING OF APPLICATIONS FOR ANIMAL LOT PERMITS.** Any Minnesota county board may, by resolution, with approval of the pollution control agency, assume responsibility for processing applications for permits required by the pollution control agency under this section for livestock feedlots, poultry lots or other animal lots. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to any appropriate county officer or employee.

(a) For the purposes of this subdivision, the term "processing" includes:

(a) (1) the distribution to applicants of forms provided by the pollution control agency;

(b) (2) the receipt and examination of completed application forms, and the certification, in writing, to the pollution control agency either that the animal lot facility for which a permit is sought by an applicant will comply with applicable rules and standards, or, if the facility will not comply, the respects in which a variance would be required for the issuance of a permit; and

(c) (3) rendering to applicants, upon request, assistance necessary for the proper completion of an application.

(b) For the purposes of this subdivision, the term "processing" may include, at the option of the county board:

(d) issuing, denying, modifying, imposing conditions upon, or revoking permits pursuant to the provisions of this section or rules promulgated pursuant to it, subject to review, suspension, and reversal by the pollution control agency. The pollution control agency shall, after written notification, have 15 days to review, suspend, modify, or reverse the issuance of the permit. After this period, the action of the county board is final, subject to appeal as provided in chapter 14.

(c) For the purpose of administration of rules adopted under this subdivision, the commissioner and the agency may provide exceptions for cases where the owner of a feedlot has specific written plans to close the feedlot within five years. These exceptions include waiving requirements for major capital improvements.

(d) For purposes of this subdivision, a discharge caused by an extraordinary natural event such as a precipitation event of greater magnitude than the 25-year, 24-hour event, tornado, or flood in excess of the 100-year flood is not a "direct discharge of pollutants."

(e) In adopting and enforcing rules under this subdivision, the commissioner shall cooperate closely with other governmental agencies.

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(f) The pollution control agency shall work with the Minnesota extension service, the department of agriculture, the board of water and soil resources, producer groups, local units of government, as well as with appropriate federal agencies such as the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, to notify and educate producers of rules under this subdivision at the time the rules are being developed and adopted and at least every two years thereafter.

(g) The pollution control agency shall adopt rules governing the issuance and denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section. These rules apply both to permits issued by counties and to permits issued by the pollution control agency directly.

(h) The pollution control agency shall exercise supervising authority with respect to the processing of animal lot permit applications by a county.

Sec. 9. Minnesota Statutes 1992, section 561.19, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purposes of this section, the following terms have the meanings given them:

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. As used in this paragraph, "expanded or significantly altered" means:

(1) an expansion by at least 25 percent in the amount of a particular crop grown or the number of a particular kind of animal or livestock located on an agricultural operation; or

(2) a distinct change in the kind of agricultural operation, as in changing from one kind of crop, livestock, animal, or product to another, but not merely a change from one generally accepted agricultural practice to another in producing the same crop or product.

(c) "Family farm" means an unincorporated farm unit owned by one or more persons or spouses of persons related to each other within the third degree of kindred according to the rules of the civil law at least one of whom is residing or actively engaged in farming on the farm unit, or a "family farm corporation," as that term is defined in section 500.24, subdivision 2.

Sec. 10. Minnesota Statutes 1992, section 561.19, subdivision 2, is amended to read:

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Subd. 2. **AGRICULTURAL OPERATION NOT A NUISANCE.** An agricultural operation ~~which is a part of a family farm~~ is not and shall not become a private or public nuisance after ~~six~~ two years from its established date of operation if the operation was not a nuisance at its established date of operation.

The provisions of this subdivision do not apply:

(a) (1) to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;

(b) (2) when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;

(c) (3) to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person;

(d) (4) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution control agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or

(e) (5) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance.

Sec. 11. 1994 AND 1995 DEMONSTRATION PROGRAM; RESTRICTIONS.

(a) During the years 1994 and 1995, loan participations under Minnesota Statutes, section 41B.045, must comply with the restrictions in this section.

(b) To the extent that herd health will not be jeopardized, farms receiving assistance from the authority must be available for tours within the first two years after completion of the expansion.

(c) All livestock expansion loans must be for expansions that include some of the most up-to-date, efficient systems available. Projects must be approved by a University of Minnesota extension livestock specialist prior to approval by the authority.

Sec. 12. EFFECTIVE DATE.

Section 4 is effective the day following final enactment.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 4:50 p.m.

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