

HB 1203 -- Agricultural Operations

Sponsor: Munzlinger

This bill establishes the Concentrated Animal Feeding Operation (CAFO) Review Board and authorizes the board to issue tax credits equal to 50% of the cost for purchasing and installing reasonably available odor control technology in class IB, class IC, or class II CAFOs. A single tax credit cannot exceed \$100,000, and the cumulative amount of tax credits issued for this purpose will not exceed \$2 million in any one year. The tax credit is to be taken by the taxpayer in the year issued but may be carried forward for three years until the full credit has been claimed. The taxpayer may sell, assign, convey, or transfer the tax credits authorized by the bill. No tax credit will be issued for tax years beginning on or after January 1, 2013.

No public health order, ordinance, rule, or regulation established by a county commission or county health center board will apply to any CAFO. However, an existing order as of the effective date of the bill will remain in effect until certain standards have been established.

The Department of Agriculture is required to establish standards for managed environment livestock operations that implement odor control technology and utilize best management practices for the handling and management of animals and animal manure. The department must develop procedures to determine if a CAFO meets these standards within 30 days of the receipt of a permit application.

No CAFO or its appurtenances can be considered a nuisance, private or public, or to trespass by any changed conditions in or about the locality after the facility has been in operation for one year. A CAFO can reasonably expand, diversify, or modernize if all applicable codes, laws, and regulations are met. A CAFO and its appurtenances include any operation used in the production, processing, or storing for commercial purposes of crops, livestock, equine, forestry, swine, poultry, livestock products, swine products, or poultry products. If any action alleging a nuisance or trespass is found to be frivolous, the defendant is to recover his or her costs and expenses, as determined by the court. No CAFO can be considered a nuisance, private or public, or to trespass for conditions associated with farming-related activities conducted by the CAFO or any of its appurtenances except whenever it results from negligence.

All class I facilities meeting the standards for managed environment livestock operations will retain the current statutory buffer distances. All class I facilities not meeting

the standards will be subject to the following buffer distances:

- (1) For CAFOs with at least 1,000 animal units, 1,250 feet;
- (2) For CAFOs with between 3,000 and 6,999 animal units, 2,500 feet; and
- (3) For CAFOs with 7,000 or more animal units, 3,750 feet.

All CAFOs in existence prior to the establishment of the rules required by the bill will not be subject to the revised buffer distances; except if it expands into a higher classification, the revised buffer distances will apply.

If the department, due to certain factors, recommends a reduced buffer distance, the governing body of the county in which the CAFO is located has 60 days to reject the recommendation or the department will adopt the reduced buffer distance.

The department is required, by August 28, 2007, to send a draft copy of an operating permit for a new class IA CAFO to the governing body of the county in which the proposed facility is to be located. If the governing body rejects the draft operating permit within 60 days of receipt, the department will not issue a final permit. If the governing body does not reject the draft permit, the draft permit will be issued as the final permit.

The Missouri Clean Water Commission is required to review and revise design guidelines regarding CAFOs. Any proposed class II CAFO with an operating capacity of more than 650 animal units is required, by August 28, 2007, to obtain a letter of approval from the department. The commission is to review and revise, as necessary, the rules and regulations that must be met in order for the department to issue a letter of approval. Class II CAFOs must be at least 500 feet from any public building or occupied residence and are subject to neighbor notification requirements. Class II CAFOs are prohibited from locating within one mile of federally owned reservoirs or reservoirs regulated by the Federal Energy Regulatory Commission and from applying manure within one-quarter mile of the reservoirs. This provision does not apply to any CAFO in existence prior to the effective date of the bill.

The CAFO Review Board will consist of five members including the directors of the Department of Natural Resources, Department of Agriculture, Commercial Agriculture Program at the University of Missouri, and Missouri Association of Counties and a representative of the agricultural community appointed by the Governor. The board is authorized to employ the Missouri Agricultural and Small Business Development Authority to

implement its duties.

Subject to the board's approval, moneys in the Concentrated Animal Feeding Operation Indemnity Fund are to be used to offset the liability of any county to address animal manure spills associated with class I or class II CAFOs. Anytime the balance in the fund is less than \$500,000, the state will indemnify the difference between \$500,000 and the fund balance. Any state indemnified moneys are to be repaid to the state from moneys collected according to the statutory requirements of CAFOs in Section 640.745, RSMo.