

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2355

Page 1, line 1, after "11-33-02" insert ", 42-04-02,"

Page 1, line 7, after the second period insert:

"1."

Page 1, after line 22, insert:

"2. a. Notwithstanding subsection 1, the board:

- (1) May require a setback distance of no more than three-fourths of one mile [1.20 kilometers] from any occupied residence, business, church, school, or public park for any concentrated or confined animal feeding operation having more than one thousand but fewer than five thousand animal units.
- (2) May require a setback distance of no more than one and one-quarter miles [2.01 kilometers] from any occupied residence, business, church, school, or public park for any concentrated or confined animal feeding operation having five thousand or more animal units.
- (3) May require financial assurance for the clean up upon termination of any concentrated or confined animal feeding operation having five thousand or more animal units. The financial assurance may not exceed five dollars per animal unit.
- (4) May require a permit before a person builds or establishes a new residence, business, church, school, or public park within one mile [1.61 kilometers] of any established concentrated or confined animal feeding operation permitted under chapter 61-28.

b. Any person owning property that is closer to the concentrated or confined animal feeding operation than the setback provided under this subsection may waive, in writing, the required setback distance.

c. As used in this section, "public park" means a park established by the federal government, the state, or a political subdivision of the state.

3. This section does not apply to any concentrated or confined animal feeding operation in existence or approved by the state department of health before August 1, 1999.

**SECTION 2. AMENDMENT.** Section 42-04-02 of the North Dakota Century Code is amended and reenacted as follows:

**42-04-02. Agricultural operation deemed not nuisance.** An agricultural operation is not, nor shall it become, a private or public nuisance by any changed conditions in or about the locality of such operation after it has been in operation for more than one year, if such operation was not a nuisance at the time the operation began; except that the provisions of this section shall not apply when a nuisance results

from the negligent or improper operation of any such agricultural operation. Nothing in this chapter allows the maintenance of a nuisance that would result in the taking of another's property without compensation in violation of state or federal law."

Page 2, line 2, after the period insert:

"1."

Page 2, line 2, after line 20, insert:

"2. a. Notwithstanding subsection 1, the board:

(1) May require a setback distance of no more than three-fourths of one mile [1.20 kilometers] from any occupied residence, business, church, school, or public park for any concentrated or confined animal feeding operation having more than one thousand but fewer than five thousand animal units.

(2) May require a setback distance of no more than one and one-quarter miles [2.01 kilometers] from any occupied residence, business, church, school, or public park for any concentrated or confined animal feeding operation having five thousand or more animal units.

(3) May require financial assurance for the clean up upon termination of any concentrated or confined animal feeding operation having five thousand or more animal units. The financial assurance may not exceed five dollars per animal unit.

(4) May require a permit before a person builds or establishes a new residence, business, church, school, or public park within one mile [1.61 kilometers] of any established concentrated or confined animal feeding operation permitted under chapter 61-28.

b. Any person owning property that is closer to the concentrated or confined animal feeding operation than the setback provided under this subsection may waive, in writing, the required setback distance.

c. As used in this section, "public park" means a park established by the federal government, the state, or a political subdivision of the state.

3. This section does not apply to any concentrated or confined animal feeding operation in existence or approved by the state department of health before August 1, 1999."

Renumber accordingly