STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3130 By: Thornbrugh

AS INTRODUCED

An Act relating to agriculture; amending Section 17, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-210.1), which relates to setback requirements for certain animal feeding operations; updating language; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 17, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-210.1), is amended to read as follows:

Section 9-210.1 A. Based upon Oklahoma's variety and varying topography, climatological conditions, and geographic and stratigraphic boundaries, the state shall be divided east and west based on the Indian Meridian for the purpose of determining setback requirements for animal feeding operations from occupied residences pursuant to the provisions of this section.

B. Except as otherwise provided by Section ~~18~~ 9-210.2 of this ~~act~~ title, no new or expanding licensed managed feeding operation with a capacity of two thousand (2,000) or more animal units:

1. Located in the eastern half of the state shall be constructed where its closest waste facility is within a distance of

one-half (1/2) mile of any occupied residence not owned or leased by the owner or operator of the licensed managed feeding operation; or

2. Located in the western half of the state shall be constructed where its closest waste facility is within a distance of three-fourths (3/4) mile of any occupied residence not owned or leased by the owner or operator of the licensed managed feeding operation.

C. Except as otherwise provided by Section ~~18~~ 9-210.2 of this ~~act~~ title, no new or expanding animal feeding operation with a capacity of less than two thousand (2,000) animal units but more than one thousand (1,000) animal units which primarily uses a liquid animal waste management system and where animals are primarily housed in a roof-covered structure:

1. Located in the eastern half of the state shall be constructed where its closest waste facility is located within a distance of one-fourth (1/4) mile of any ~~dwelling~~ occupied residence not owned or leased by the owner of the animal feeding operation; or

2. Located in the western half of the state shall be constructed where its closest waste facility is located within a distance of one-half (1/2) mile of any ~~dwelling~~ occupied residence not owned or leased by the owner of the animal feeding operation.

D. Except as otherwise provided by Section ~~18~~ 9-210.2 of this ~~act~~ title, no new or expanding animal feeding operation with a capacity of more than three hundred (300) animal units but having one thousand (1,000) animal units or less which primarily uses a liquid animal waste management system and where animals are primarily housed in a roof-covered structure shall be constructed where its closest waste facility is located within a distance of one-fourth (1/4) mile of any occupied residence not owned or leased by the owner of the animal feeding operation.

E. Except as otherwise authorized by this subsection, no liquid animal waste shall be land applied within five hundred (500) feet of

the nearest corner of an occupied residence not owned or leased by the owner of the animal feeding operation.

F. Except as otherwise provided by Section ~~18~~ 9-210.2 of this ~~act~~ title, no concentrated animal feeding operation shall be established after the effective date of this act which is within one (1) mile of ten or more residences which are occupied residences at the time of the establishment of the concentrated animal feeding operation.

G. The proscription contained in subsections B, C, D, E and F of this section shall not apply if the adjacent property owner executes a written waiver with the owner or operator of the animal feeding operation, under such terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county in which the adjacent property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections B, C, D, E and F of this section. A change in ownership of the adjacent property or change in the ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver.

H. No liquid animal waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

I. Except as otherwise provided by Section ~~18~~ 9-210.2 of this ~~act~~ title, no concentrated animal feeding operation shall be established after the effective date of this act which is:

1. Within three (3) miles of a state park or resort;

2. Located on land more than three (3) miles within the incorporated limits of any municipality; or

3. Within three (3) miles of the high water mark of a public water supply if the concentrated animal feeding operation is located within the drainage basin for the public water supply.

J. All distances between occupied residences and animal feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Department of Agriculture. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-9304 KSM