

SHORT TITLE: Concentrated animal feeding operations; denial of license; violations and penalties; authorizing injunctions; authorizing special elections; exceptions; grandfathering certain operations; codification; effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 784

By: Gustafson

AS INTRODUCED

An Act relating to concentrated animal feeding

operations; amending 2 O.S. 1991, Section 9-211, as amended by Section 19, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-211), which relates to the Oklahoma Concentrated Animal Feeding Operations Act; requiring denial of licenses to certain operations; providing procedures; specifying violations and penalties; allowing certain persons to obtain injunctions and providing procedures; authorizing county commissioners of any county to call a special election for the purpose of limiting the size of animal feeding operations; providing for certain exceptions; providing for size and species limitation; amending 18 O.S. 1991, Section 954, as amended by Section 2, Chapter 61, O.S.L. 1994 (18 O.S. Supp. 1997, Section 954), which relates to farming and ranching corporations; grand fathering certain operations; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 1991, Section 9-211, as amended by Section 19, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-211), is amended to read as follows:

Section 9-211. A. The State Board of Agriculture shall have the power and the duty to suspend, revoke or not renew the license of any animal feeding operation after a hearing, and after an administrative determination that such animal feeding operation has violated or has failed to comply with any of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act, or any rule promulgated pursuant thereto. The Board shall have the power and duty to reinstate any such suspended or revoked licenses, or renew such licenses, upon a satisfactory and acceptable showing and assurance that such animal feeding operation conducted animal feeding operations in conformity with, and in compliance with, the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, and that such conformity and compliance will be continuous.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, may deny issuance of a license or transfer of a license to establish and operate an animal feeding operation on and after September 1, 1997, to any person or other legal entity which:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to animal feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing Administrative Procedures and the Administrative Procedures Act.

D. The Board shall not issue a concentrated animal feeding operation license to any animal feeding operation which is in violation of size limitations imposed by a county pursuant to Section 2 of this act.

E. It shall be unlawful for any person to willfully operate an animal feeding operation in violation of a size limitation imposed by a county pursuant to Section 2 of this act. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and may be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not exceeding one (1) year, or both such fine and imprisonment.

F. Any resident of a county which has imposed size limitations upon animal feeding operations pursuant to Section 2 of this act may bring action in district court to obtain an injunction against the operator of an animal feeding operation in that county which is in violation of such size limitations. The action must be brought pursuant to the procedures set forth in Sections 1381 through 1390 and 1393 through 1396 of Title 12 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 211.1 of Title 2, unless there is created a duplication in numbering reads as follows:

Notwithstanding any provision in the Oklahoma Concentrated Animal Feeding Operations Act, the board of county commissioners of any county may call a special election to determine if an animal feeding operation, as defined in Section 9-202 of Title 2 of the Oklahoma Statutes, located in that county may be limited in size. Such limitations, if approved, may not be applied to operations existing on the date of the election except for expansion of such operations. The board of county commissioners shall set the size limitations to be considered at such election which shall be species specific. At the discretion of the board of county commissioners a

single election may provide for size limitations for a single species or may provide for size limitations for multiple species.

SECTION 3. AMENDATORY 18 O.S. 1991, Section 954, as amended by Section 2, Chapter 61, O.S.L. 1994 (18 O.S. Supp. 1997, Section 954), is amended to read as follows:

Section 954. The provisions of this act, Section 951 et seq. of this title, shall not apply where a corporation, either domestic or foreign:

1. Engages in research and/or feeding arrangements or operations concerned with the feeding of livestock or poultry, but only to the extent of such research and/or feeding arrangements or such livestock or poultry operations; or

2. Engages in operations concerned with the production and raising of livestock or poultry for sale or use as breeding stock and including only directly related operations, such as breeding or feeding livestock or poultry which are not selected or sold as breeding stock; or

3. Engages in poultry and/or swine operations, including only directly related operations, such as operating hatcheries, facilities for the production of breeding stock, feed mills, processing facilities, and providing supervisory, technical and other assistance to any other persons performing such services on behalf of the corporation, provided such operations were in existence in this state prior to July 1, 1998, but only to the extent of such operations on that date; or

4. Engages in forestry as defined by Section 1-4 of Title 2 of the Oklahoma Statutes; or

5. Whose corporate purpose is charitable or eleemosynary; or

6. Presently engages in fluid milk processing within the State of Oklahoma or leases to a fluid milk processor so engaged; provided, this exception is limited to such dairy operations as are necessary to meet such processor's needs.

SECTION 4. This act shall become effective November 1, 1998.

46-2-1829

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