HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2353 By: Kouplen of the House

and

Justice of the Senate

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2011, Section 20-7, which relates to the Oklahoma Swine Feeding Operations Act; modifying frequency of educational training requirements for certain employees; requiring licensed managed feeding operation to develop and submit continuing education curricula; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 20-7, is amended to read as follows:

Section 20-7. A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed swine feeding operation or expanding operation, the necessary forms and applications.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. The application for a license to operate a new or previously unlicensed swine feeding operation or expanding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;

2. Name and address of the swine feeding operation;

3. Capacity in swine animal units, and number and type of swine housed or confined;

4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, swine waste storage facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing a Swine Waste Management Plan, Best Management Practices, Odor Abatement Plan or such other plan authorized by the Oklahoma Swine Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Sections 20-19 and 20-21 of this title; and

7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the

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provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

C. 1. An application for renewal of a license to operate a swine feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation shall be placed in operation until a license for the facility or expansion has been issued by the Department.

E. For transfer of a license to a new owner or operator, the following conditions shall be met:

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1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

a. the new owner or operator cannot comply with the requirements of transfer,

b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the swine feeding operation,

c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto, or

d. the new owner or operator has failed to meet the requirements of Section 20-25 of this title; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps

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necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

F. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Swine Feeding Operations Act by the Board shall be made in accordance with Section 20-25 of this title.

G. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated swine feeding operation shall be under oath and shall contain the following information:

1. a. A statement of ownership.

(1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

(2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.

(3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

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b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

3. a. An environmental history from the past three (3) years of any concentrated animal feeding operation or concentrated swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of an animal feeding operation or swine feeding operation.

b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set

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aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Swine Feeding Operations Act or rules promulgated pursuant thereto.

H. 1. All employees of a proposed licensed managed feeding operation whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control. Proof of certification of a minimum of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.

2. All employees of a licensed managed feeding operation whose duties include treatment, storage or application of animal waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control.

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3. The Department shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include treatment, storage, or application of swine waste.

4. After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.

5. Appropriate curricula and course content shall be developed ~~under the supervision of Oklahoma State University Cooperative Extension Service, which shall provide certification~~ by the licensed managed feeding operation and submitted to the Department for approval.

~~5.~~ 6. Failure to obtain the prerequisite nine (9) hours of training and ~~annual~~ any continuing education training ~~and education~~ as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

I. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more

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than Ten Thousand Dollars ($10,000.00) for each violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

SECTION 2. This act shall become effective November 1, 2012.

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, WILDLIFE AND ENVIRONMENT, dated 02-08-12 - DO PASS, As Coauthored.

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