

Senator Scott D. Sandall proposes the following substitute bill:

REGULATION OF CONCENTRATED ANIMAL FEEDING

OPERATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill enacts provisions related to large concentrated animal feeding operations.

Highlighted Provisions:

This bill:

▶ enacts the Large Concentrated Animal Feeding Operations Act, including:

- defining terms;
- requiring adoption of county large concentrated animal feeding operation land use ordinances under certain circumstances;
- addressing scope of a county large concentrated animal feeding operation land use ordinance; and
- addressing determining the geographic area where large concentrated animal feeding operations may be located.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 17-27a-1101, Utah Code Annotated 1953

28 17-27a-1102, Utah Code Annotated 1953

29 17-27a-1103, Utah Code Annotated 1953

30 17-27a-1104, Utah Code Annotated 1953

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32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **17-27a-1101** is enacted to read:

34 **Part 11. Large Concentrated Animal Feeding Operations Act**

35 **17-27a-1101. Title.**

36 This part is known as the "Large Concentrated Animal Feeding Operations Act."

37 Section 2. Section **17-27a-1102** is enacted to read:

38 **17-27a-1102. Definitions.**

39 (1) "Animal feeding operation" means a lot or facility where the following conditions
40 are met:

41 (a) animals have been, are, or will be stabled or confined and fed or maintained for a
42 total of 45 days or more in any 12-month period; and

43 (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the
44 normal growing season over any portion of the lot or facility.

45 (2) (a) "Commercial enterprise" means a building:

46 (i) used as a part of a business that manufactures goods, delivers services, or sells
47 goods or services;

48 (ii) customarily and regularly used by the general public during the entire calendar
49 year; and

50 (iii) connected to electric or water systems.

51 (b) "Commercial enterprise" does not include an agriculture operation.

52 (3) "County large concentrated animal feeding operation land use ordinance" means an
53 ordinance adopted in accordance with Section 17-27a-1103.

54 (4) "Education institution" means a building in which any part is used:

55 (a) for more than three hours each weekday during a school year as a public or private:

56 (i) elementary school;

- 57 (ii) secondary school; or
- 58 (iii) kindergarten;
- 59 (b) a state institution of higher education as defined in Section 53B-3-102; or
- 60 (c) a private institution of higher education in the state accredited by a regional or
- 61 national accrediting agency recognized by the United States Department of Education.
- 62 (5) "Health care facility" means the same as that term is defined in Section 26-21-2.
- 63 (6) "Large concentrated animal feeding operation" means an animal feeding operation
- 64 that stables or confines as many as or more than the numbers of animals specified in any of the
- 65 following categories:
- 66 (a) 700 mature dairy cows, whether milked or dry;
- 67 (b) 1,000 veal calves;
- 68 (c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including
- 69 heifers, steers, bulls, and cow calf pairs;
- 70 (d) 2,500 swine each weighing 55 pounds or more;
- 71 (e) 10,000 swine each weighing less than 55 pounds;
- 72 (f) 500 horses;
- 73 (g) 10,000 sheep or lambs;
- 74 (h) 55,000 turkeys;
- 75 (i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure
- 76 handling system;
- 77 (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other
- 78 than a liquid manure handling system;
- 79 (k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure
- 80 handling system;
- 81 (l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure
- 82 handling system; or
- 83 (m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.
- 84 (7) "Manure" includes manure, bedding, compost, a raw material, or other material
- 85 commingled with manure or set aside for disposal.
- 86 (8) "Public area" means land that:
- 87 (a) is owned by the federal government, the state, or a political subdivision with

88 facilities that attract the public to congregate and remain in the area for significant periods of
89 time;

90 (b) (i) is part of a public park, preserve, or recreation area that is owned or managed by
91 the federal government, the state, a political subdivision, or a nongovernmental entity; and

92 (ii) has a cultural, archaeological, scientific, or historic significance or contains a rare
93 or valuable ecological system, including a site recognized as a National Historic Landmark or
94 Site; or

95 (c) is a cemetery.

96 (9) "Religious institution" means a building and grounds used at least monthly for
97 religious services or ceremonies.

98 Section 3. Section 17-27a-1103 is enacted to read:

99 **17-27a-1103. County adoption of a county large concentrated animal feeding**
100 **operation land use ordinance.**

101 (1) (a) The legislative body of a county desiring to restrict siting of large concentrated
102 animal feeding operations shall adopt a county large concentrated animal feeding operation
103 land use ordinance in accordance with this part by no later than February 1, 2022.

104 (b) A county may consider an application to locate large concentrated animal feeding
105 operations in the county before the county adopts the county large concentrated animal feeding
106 operation land use ordinance under this part.

107 (2) A county large concentrated animal feeding operation land use ordinance described
108 in Subsection (1) shall:

109 (a) designate geographic areas of sufficient size to support large concentrated animal
110 feeding operations, including state trust lands described in Subsection 53C-1-103(8) and
111 private property within the county, including adopting a map described in Section
112 17-27a-1104;

113 (b) establish requirements and procedures for applying for land use decision that
114 provides a reasonable opportunity to operate large concentrated animal feeding operations
115 within the geographic area described in Subsection (2)(a);

116 (c) disclose fees imposed to apply for the land use decision described in Subsection
117 (2)(b);

118 (d) disclose any requirements in addition to fees described in Subsection (2)(c) to be

119 imposed by the county; and

120 (e) provide for administrative remedies consistent with this chapter.

121 (3) (a) This part does not authorize a county to regulate the operation of large
122 concentrated animal feeding operations in any way that conflicts with state or federal statutes
123 or regulations.

124 (b) Nothing in this part supersedes or authorizes enactment of an ordinance that
125 infringes on Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection
126 Areas, or Title 4, Chapter 44, Agricultural Operations Nuisances Act.

127 Section 4. Section **17-27a-1104** is enacted to read:

128 **17-27a-1104. Criteria considered in adopting the geographic area of a county**
129 **large concentrated animal feeding operation land use ordinance -- Maps -- Exception.**

130 (1) (a) To determine the geographic areas where large concentrated animal feeding
131 operations may be located under a county large concentrated animal feeding operation land use
132 ordinance, the county shall consider:

133 (i) the distance of the geographic area measured in feet from the following:

134 (A) a residential zone;

135 (B) a health care facility;

136 (C) a public area;

137 (D) an education institution;

138 (E) a religious institution;

139 (F) a commercial enterprise;

140 (G) a municipal boundary; and

141 (H) a state or county highway or road;

142 (ii) prevailing winds;

143 (iii) topography;

144 (iv) economic benefits to the county; and

145 (v) reasonable access to transportation, water, and power infrastructure.

146 (b) A county may consider criteria in addition to those described in Subsection (1)(a).

147 (2) After considering the factors described in Subsection (1), the county shall designate
148 the geographic areas where large concentrated animal feeding operations may locate as
149 required by Subsection [17-27a-1103\(2\)\(a\)](#) and prepare a map available to the public showing

150 the geographic areas in the county.

151 (3) A county may not designate a geographic area for large concentrated animal
152 feeding operations based solely on a uniform setback distance requirement from the locations
153 described in Subsection (1)(a)(i), but shall determine the geographic area by evaluating all
154 criteria in Subsection (1).

155 (4) A county shall designate at least one geographic area within the county where large
156 concentrated animal feeding operations for all animal species listed in Subsection
157 17-27a-1102(6) may be located unless the county demonstrates that one of the following makes
158 it not feasible for the county to meet the criteria described in this section:

159 (a) the county's population density; or

160 (b) the county's population density relative to the amount of private land within the
161 county.