

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1197 be amended to read as follows:

- 1 Page 1, line 8, delete "A" and insert "**(a) Except as provided in**
- 2 **subsection (b), and subject to subsection (d), a**".
- 3 Page 1, line 10, delete "less than one (1) mile from the boundary of"
- 4 and insert "**either:**
- 5 **(1) less than one-half (1/2) mile from the boundary of a**
- 6 **municipality; or**
- 7 **(2) less than one thousand two hundred (1,200) feet from**
- 8 **either of the following:**
- 9 **(A) The boundary of a parcel of land on which any of the**
- 10 **following are located:**
- 11 **(i) A child care center licensed under IC 12-17.2-4.**
- 12 **(ii) A public school.**
- 13 **(iii) A health facility licensed under IC 16-28.**
- 14 **(B) Waters.**
- 15 **(b) Subsection (a) does not apply to construction that:**
- 16 **(1) is:**
- 17 **(A) an expansion of an existing confined feeding operation**
- 18 **or CAFO; or**
- 19 **(B) construction of a new confined feeding operation or**
- 20 **CAFO proposed to be located within one thousand two**
- 21 **hundred (1,200) feet of a boundary referred to in**
- 22 **subsection (a)(2) of an entity described in subsection**
- 23 **(a)(2)(A) that located within one thousand two hundred**
- 24 **(1,200) feet of a confined feeding operation or CAFO that:**

- 1 (i) existed; or
 2 (ii) was under construction;
 3 on March 1, 2007; and
 4 (2) is proposed by a person that has not committed in the five
 5 (5) years that immediately precede the date referred to in
 6 subsection (c) a violation of:
 7 (A) the environmental management laws; or
 8 (B) a rule adopted by the board;
 9 as determined by the department.
 10 (c) The date referred to in subsection (b)(2) is the applicable
 11 date as follows:
 12 (1) The date the department of environmental management
 13 approves the initial construction or expansion construction of
 14 a confined feeding operation or CAFO under section 1 of this
 15 chapter.
 16 (2) With respect to a CAFO to which subdivision (1) does not
 17 apply, either of the following:
 18 (A) The date the department of environmental
 19 management approves a NPDES permit for the initial
 20 construction or expansion construction of the CAFO under
 21 327 IAC 5.
 22 (B) The date a notice of intent is filed for general NPDES
 23 permit coverage for the initial construction or expansion
 24 construction of the CAFO under 327 IAC 15.
 25 (d) A person that proposes construction as described in
 26 subsection (a) may appeal to:
 27 (1) the local zoning authority that has jurisdiction where the
 28 facility is to be located; or
 29 (2) the county executive if the facility is to be located in a
 30 county that does not zone under IC 36-7-4;
 31 for an exemption from the distance restrictions under subsection
 32 (a). The person must specify in the appeal petition the reasons that
 33 justify the exemption.
 34 (e) A local zoning authority or county executive that receives an
 35 appeal petition under subsection (d) shall do the following:
 36 (1) Publish notice under IC 5-3-1 of a public hearing on the
 37 appeal. The public hearing must be held not later than
 38 forty-five (45) days after the date of filing of the appeal
 39 petition under subsection (d).
 40 (2) Hold the public hearing, taking testimony from the
 41 appellant and the public on the appeal.
 42 (3) Conduct any inquiry or investigation that the local zoning
 43 authority or county executive considers necessary before
 44 making a determination.
 45 (f) A local zoning authority or county executive may grant an
 46 appeal under subsection (d) for exemption from the distance
 47 restrictions under subsection (a) only if the local zoning authority

1 or county executive determines that granting the appeal is
2 consistent with the public health, safety, and welfare.

3 (g) After a public hearing held under subsection (e), the local
4 zoning authority or county executive shall:

5 (1) make a written determination on the appeal petition; and

6 (2) give notice of the determination to:

7 (A) the appellant; and

8 (B) the department;

9 not later than thirty (30) days after the date of the public
10 hearing, unless the local zoning authority or county executive
11 and the appellant agree to a longer time."

12 Page 1, delete lines 11 through 16.

13 Page 2, line 11, delete "if the limitation in section" and insert "if:

14 (A) the limitation in section 1.5(a) of this chapter applies
15 to; or

16 (B) an appeal is pending under section 1.5(d) of this
17 chapter with respect to;

18 the facility that is the subject of the application."

19 Page 2, delete lines 12 through 13.

20 Page 3, between lines 7 and 8, begin a new paragraph and insert:

21 "SECTION 4. IC 13-18-10-2.4 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2007]: **Sec. 2.4. For purposes of this chapter,**
24 **the only permissible methods of application of manure generated**
25 **from a confined feeding operation to land that meets the distance**
26 **restrictions described in section 1.5(a) of this chapter are as**
27 **follows:**

28 (1) Incorporation (as defined in 327 IAC 16-2-19 as in effect
29 on January 1, 2007).

30 (2) Injection (as defined in 327 IAC 16-2-20 as in effect on
31 January 1, 2007)."

32 Page 4, between lines 26 and 27, begin a new paragraph and insert:

33 "SECTION 10. IC 13-18-10-11 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2007]: **Sec. 11. If:**

36 (1) a court action is brought against an owner or operator of
37 a confined feeding operation, including a CAFO, by a person
38 other than a political subdivision or a state agency; and

39 (2) the action includes a complaint against any aspect of the
40 construction or operation of the confined feeding operation or
41 CAFO;

42 the party prevailing in the action is entitled to recover the costs of
43 the action, including reasonable attorney's fees as determined by
44 the court.

45 SECTION 11. IC 13-18-10-12 IS ADDED TO THE INDIANA
46 CODE AS A NEW SECTION TO READ AS FOLLOWS
47 [EFFECTIVE JULY 1, 2007]: **Sec. 12. The department shall revoke**

1 **an approval or permit under which a person is allowed to construct**
2 **or operate a confined feeding operation, including a CAFO, at the**
3 **time of the third occurrence of either of the following:**

- 4 **(1) The person is convicted under IC 13-30-6.**
5 **(2) A civil penalty is imposed on the person under IC 13-30-4,**
6 **except for a civil penalty for a minor violation as described in**
7 **IC 13-30-4-3(a)."**

8 Renumber all SECTIONS consecutively.
(Reference is to HB 1197 as printed February 16, 2007.)

Representative Stutzman