

HCS SS SCS SB 428 -- AGRICULTURE

SPONSOR: Purgason (Quinn, 7)

COMMITTEE ACTION: Voted "do pass" by the Committee on Agriculture Policy by a vote of 9 to 0.

This substitute changes the laws regarding agriculture.

#### NATIONAL ANIMAL IDENTIFICATION SYSTEM

The Department of Agriculture is prohibited from participating in any animal identification program that may be required under the National Animal Identification System administered by the United States Department of Agriculture mandating participation in premises registration, animal identification, and animal tracing without specific authorization from the General Assembly.

#### AGRICULTURAL OPERATIONS

The Department of Natural Resources is required to establish rules and regulations regarding the establishment, permitting, design, construction, operation, and management of voluntarily regulated concentrated animal feeding operations (CAFOs). A voluntarily regulated facility is any CAFO with a capacity of less than 1,000 animal units that voluntarily applies to the department to be regulated and which is not otherwise required by law to have a class II permit.

Any permit issued to a class II facility prior to the effective date of the substitute will remain in effect, and the facility will be considered a voluntarily regulated facility.

The substitute establishes the Concentrated Animal Feeding Operation (CAFO) Review Board and authorizes the board to issue tax credits equal to 50% of the cost for purchasing and installing reasonably available odor control technology in class IB, class IC, or class II CAFOs. A single tax credit cannot exceed \$100,000, and the cumulative amount of tax credits issued for this purpose will not exceed \$2 million in any one year. The tax credit is to be taken by the taxpayer in the year issued but may be carried forward for three years until the full credit has been claimed. The taxpayer may sell, assign, convey, or transfer the tax credits authorized by the substitute. No tax credit will be issued for tax years beginning on or after January 1, 2013. No public health order, ordinance, rule, or regulation established by a county commission or county health center board will apply to any CAFO. However, an existing order as of the effective date of the substitute will remain in effect until certain standards have been established.

The Department of Agriculture is required to establish standards for managed environment livestock operations that implement odor control technology and utilize best management practices for the handling and management of animals and animal manure. The department must develop procedures to determine if a CAFO meets these standards within 30 days of the receipt of a permit application.

No CAFO or its appurtenances can be considered a nuisance, private or public, or to trespass by any changed conditions in or about the locality after the facility has been in operation for one year. A CAFO can reasonably expand, diversify, or modernize if all applicable codes, laws, and regulations are met. A CAFO and its appurtenances include any operation used in the production, processing, or storing for commercial purposes of crops, livestock, equine, forestry, swine, poultry, livestock products, swine products, or poultry products. If any action alleging a nuisance or trespass is found to be frivolous, the defendant is to recover his or her costs and expenses, as determined by the court. No CAFO can be considered a nuisance, private or public, or to trespass for conditions associated with farming-related activities conducted by the CAFO or any of its appurtenances except whenever it results from negligence. All class I facilities meeting the standards for managed environment livestock operations will retain the current statutory buffer distances. All class I facilities not meeting the standards will be subject to the following buffer distances:

- (1) For CAFOs with at least 1,000 animal units, 1,250 feet;
- (2) For CAFOs with between 3,000 and 6,999 animal units, 2,500 feet; and
- (3) For CAFOs with 7,000 or more animal units, 3,750 feet.

All CAFOs in existence prior to the establishment of the rules required by the substitute will not be subject to the revised buffer distances; except if it expands into a higher classification, the revised buffer distances will apply.

If the department, due to certain factors, recommends a reduced buffer distance, the governing body of the county in which the CAFO is located has 60 days to reject the recommendation or the department will adopt the reduced buffer distance.

The department is required, by August 28, 2007, to send a draft copy of an operating permit for a new class IA CAFO to the governing body of the county in which the proposed facility is to be located. If the governing body rejects the draft operating permit within 60 days of receipt, the department will not issue a

final permit. If the governing body does not reject the draft permit, the draft permit will be issued as the final permit.

The Missouri Clean Water Commission is required to review and revise design guidelines regarding CAFOs. Any proposed class II CAFO with an operating capacity of more than 650 animal units is required, by August 28, 2007, to obtain a letter of approval from the department. The commission is to review and revise, as necessary, the rules and regulations that must be met in order for the department to issue a letter of approval. Class II CAFOs must be at least 500 feet from any public building or occupied residence and are subject to neighbor notification requirements. Class II CAFOs are prohibited from locating within one mile of a federally owned reservoir or a reservoir regulated by the federal Energy Regulatory Commission and from applying manure within one-quarter mile of the reservoirs. This provision does not apply to any CAFO in existence prior to the effective date of the substitute.

The CAFO Review Board will consist of five members including the directors of the Department of Natural Resources, Department of Agriculture, Commercial Agriculture Program at the University of Missouri, and Missouri Association of Counties and a representative of the agricultural community appointed by the Governor. The board is authorized to employ the Missouri Agricultural and Small Business Development Authority to implement its duties.

Subject to the board's approval, moneys in the Concentrated Animal Feeding Operation Indemnity Fund are to be used to offset the liability of any county to address animal manure spills associated with class I or class II CAFOs. Anytime the balance in the fund is less than \$500,000, the state will indemnify the difference between \$500,000 and the fund balance. Any state indemnified moneys are to be repaid to the state from moneys collected according to the statutory requirements of CAFOs in Section 640.745, RSMo.

#### LARGE ANIMAL VETERINARY STUDENT LOAN ASSISTANCE

The administration of the Large Animal Veterinary Medicine Loan Repayment Program is transferred from the Missouri Veterinary Medical Board to the Department of Agriculture. The maximum number of veterinarians to whom loan repayments can be granted each year is increased from five to six, the required number of years of service in an area of defined need to satisfy the loan repayment requirement is reduced from five to four, and the maximum service loan repayment amount per year is increased from \$10,000 to \$20,000.

The Large Animal Veterinary Student Loan Program is established to provide up to six loans yearly to veterinary students attending the College of Veterinary Medicine at the University of Missouri-Columbia. No student can receive more than \$80,000 in loans. Veterinary students agreeing to locate their practice in department-identified, under-served areas of the state will have certain amounts of their loan principal and interest forgiven.

The department director will appoint an advisory panel to make recommendations regarding the administration of the programs. The panel will consist of three licensed veterinarians, the Dean of the College of Veterinary Medicine, and a public member representing agricultural interests.

The Large Animal Veterinary Student Loan Payment Fund is created consisting of appropriations from general revenue and donations. Moneys in the fund will be used for student loans and administrative expenses incurred by the department.

#### AGRICULTURAL TAX CREDITS

The definition of "agricultural tax credits" administered by the Missouri Agricultural and Small Business Development Authority is revised to include family farm breeding livestock loan tax credits created under the Tax Credit Accountability Act of 2004, and certain types of agricultural production facilities must be located in Missouri to qualify its producer member for agricultural tax credits.

#### AGRI-MISSOURI MARKETING PROGRAM

The substitute renames the Marketing Division within the Department of Agriculture as the Agriculture Business Development Division, the Marketing Development Fund as the Agriculture Business Development Fund, the Missouri Agricultural Products Marketing Development Fund as the AgriMissouri Fund, and the Citizens' Advisory Commission as the AgriMissouri Advisory Commission.

#### QUALIFIED BIO-MASS

Qualified bio-mass is added to the list of Missouri agricultural products that can be used in the production of fuel ethanol by Missouri qualified fuel ethanol producers. Beginning January 1, 2008, through December 31, 2018, Missouri qualified fuel ethanol producers producing fuel ethanol from qualified bio-mass will be eligible to receive grants from the department. The total amount of the grants is not to exceed \$10 million per year.

#### STATE AND LOCAL SALES AND USE TAX EXEMPTIONS

A state and local sales and use tax exemption is authorized for fencing materials, trailers manufactured in Missouri, motor fuel used for agricultural purposes, machinery and equipment used solely in forestry, and utilities used for research and development of agricultural/biotechnology and plant genomics products.

#### NOXIOUS WEEDS

The substitute adds spotted knapweed and sericea lespedeza to the definition of "noxious weed" and specifies that the noxious weed control laws are applicable to both varieties of weeds.

#### MISSOURI ALTERNATIVE FUELS COMMISSION

The substitute renames the Missouri Ethanol and Other Renewable Fuel Sources Commission to the Missouri Alternative Fuels Commission and expands its membership from seven to nine. The two additional members will be appointed by the Governor. The five Governor-appointed members must be engaged in the production or sale of alternative fuels. The commission will:

- (1) Make recommendations on legislation to facilitate the sale and distribution of alternative fuels and alternative fuel vehicles;
- (2) Promote the production and use of alternative fuels;
- (3) Promote the development and use of alternative fuel vehicles and other related technology;
- (4) Educate consumers about alternative fuels;
- (5) Develop a long-range plan to reduce petroleum fuel use; and
- (6) Report annually to the Governor and General Assembly.

#### MANAGED ENVIRONMENT LIVESTOCK OPERATION TAX CREDITS

The Missouri Agricultural and Small Business Development Authority is authorized to issue tax credits to owners of livestock operations to partially offset certain expenses incurred for implementing odor abatement best management practices and systems. The maximum tax credit amount for implementing a system necessary to achieve managed environment livestock operation (MELO) accreditation or improve basic infrastructure to increase the setback from the property line will be the lessor of 50% of the eligible expenses or \$50,000. The maximum tax credit amount for implementing a system necessary to meet preferred environmental practices or improve basic

infrastructure to increase the setback from the property line will be the lesser of 75% of the eligible expenses or \$75,000. The yearly maximum amount of tax credits issued by the authority for odor abatement will be \$3 million. The tax credits may be carried back three years, forward five years, assigned, transferred, or sold and may be taken against the estimated quarterly tax or quarterly taxes.

The authority is required to establish rules for tax credit eligibility based on odor abatement impact, the owner's prospective use and funding of proven technologies, and other factors that the authority considers necessary. Ninety percent of the tax credits issued in any one year will go to livestock operation owners for the implementation of best management practices and systems necessary to achieve MELO accreditation. Ten percent and any remaining MELO tax credits will be issued to livestock operation owners for the implementation of preferred environmental practices. Any unissued tax credits will not carry over to the succeeding year. The authority will impose an application fee of .25% of the tax credit amount issued.

#### MISSOURI AGRICULTURAL AND SMALL BUSINESS DEVELOPMENT AUTHORITY

Currently, agricultural tax credits are not to exceed \$6 million in any fiscal year. The substitute increases the amount to \$12 million.

The Missouri Agricultural and Small Business Development Authority is allowed to issue up to \$1 million in agricultural product utilization tax credits in any fiscal year to individuals contributing cash funds to the authority. The funds are to be used for financial or technical assistance to rural agricultural business concepts approved by the authority.

Subject to appropriation, the authority must pay the first year of charged interest payments on all linked deposit loans used for the acquisition of dairy cows. The authority is authorized to charge a service fee, not to exceed \$50, to defray the administrative costs of processing a loan.

The authority is required to develop and implement dairy business planning grants. The total amount of the grants will not exceed \$50,000; and no single grant can exceed \$5,000. An application fee may be charged, not to exceed \$50 per grant application, to defray the administrative costs of administering the grant.

The applicant's dairy operation must be located in Missouri and at least 51% owned by Missouri residents. The grant proceeds must be used solely to contract with a dairy business planning professional approved by the authority. The authority is

required to establish rules on eligibility and award criteria including improved profitability, modernization, and expansion of the dairy operation. The experience, education, and relevant dairy experience of both the grant applicant and the dairy business planning professional are required to be part of the respective selection criteria.

#### MISSOURI QUALIFIED BIODIESEL PRODUCERS

Currently, a biodiesel producer incentive grant is calculated based on the estimated number of gallons of biodiesel produced from Missouri agricultural products. The substitute removes the instate or Missouri agricultural product origin requirement of at least 51% Missouri producer owned for a renewable fuel production facility to be eligible for the grant.

#### LIQUOR AND WINE TASTING

Wineries, distillers, manufacturers, wholesalers, or brewers are allowed to provide samples for customer tasting purposes at retail licensed premises that have a special permit or a by-the-drink-for-consumption-on-the-premises-where-sold retail license. The winery, distiller, manufacturer, wholesaler, or brewer cannot give money or anything of value to the retailer for the opportunity to conduct the tasting. Tastings may be conducted off of retail licensed premises if no sales transactions take place, but solicitations for later sales via promotional materials are allowed.

#### MINING AND GRAVEL EXCAVATION

The substitute allows a property owner, an operator conducting gravel removal at the request of a property owner, or a political subdivision who contracts with an operator for excavation to remove and sell excess gravel without a permit if the primary purpose for removal is to manage seasonal gravel accretion on property not used primarily for gravel mining. Gravel removal must be conducted from June 1 through March 14, solely on the property owner's or political subdivision's property and not within a distance to be determined by the Department of Natural Resources of any building, structure, highway, road, bridge, viaduct, or water or sewer line. Property owners and operators must follow the departmental guidelines regarding surface mining and gravel removal.

Property owners are limited to selling 5,000 tons of gravel annually with a 1,500 ton per-site limitation and are required to notify the department before any person or operator conducts gravel removal from his or her property if it is intended to be sold commercially. Notification will include the nature of the

activity, the county and stream name in which the site is located, and the property owner's name. Any future commercial gravel mining activities at the site will not require the property owner to renotify the department. Any operator conducting gravel removal at the request of the property owner who removes more than 5,000 tons of sand and gravel material within a calendar year must have a watershed management practice plan approved by the Land Reclamation Commission within the department. The application must be accompanied by a \$300 fee and must contain the name of the watershed from which the operator will be conducting the removal, the location where the sand and gravel will be removed, and the description of the vehicles and equipment that will be used for the removal.

Any person filing a complaint with the department for an alleged violation of the provisions of the substitute must identify himself or herself by name and telephone number; specify the date and location of the violation; and provide adequate information as determined by the department of the violation. Any records, statements, or communications submitted by any person to the department will be confidential and used solely by the department to investigate the alleged violation.

#### IMPOUNDMENT OF ANIMALS

Currently, any neglected or abused animal may be impounded. The substitute prohibits a farm animal weighing more than 50 pounds from being impounded until the district state veterinarian of the Department of Agriculture has determined the animal to be in imminent danger of loss of life or has determined that the condition or conditions deemed to be in violation cannot reasonably be rectified before the disposition hearing. If an abused or neglected farm animal in the possession of a caregiver is impounded, the authority having custody of the animal is required to make a diligent effort to notify the owner in writing that the animal has been impounded.

#### FAMILY FARM LIVESTOCK LOAN PROGRAM

The substitute increases from \$150,000 to \$1 million the maximum amount of tax credits that the Missouri Agricultural and Small Business Development Authority is authorized to issue annually to eligible lenders participating in the Family Farm Livestock Loan Program.

#### QUALIFIED BEEF TAX CREDIT ACT

The substitute establishes the Qualified Beef Tax Credit Act which authorizes the Missouri Agricultural and Small Business Development Authority to issue a tax credit certificate in an



amount equal to 10 cents per pound above 450 pounds when qualified beef cattle are sold and 10 cents per pound if the weight of the qualified beef at a subsequent sale is greater than the weight at the previous sale. The beef cattle must be born in Missouri after August 28, 2007, must not be breeding stock, and must have been raised and finished instate to qualify for the tax credit. The authority will require submission of an application for the tax credit including certain information which will be confidential.

The tax credit must be claimed in the year in which the qualifying sale occurs; but any unused portion may be carried back three taxable years, carried forward five taxable years, assigned, transferred, or sold. The maximum amount of tax credits that may be claimed beginning January 1, 2009, and ending December 31, 2016, is \$500,000 in any tax year but cannot exceed \$500,000 in total.

#### RICE CERTIFICATION ACT

The Rice Certification Act is established which prohibits the production, transporting, or handling of certain rice varieties except as provided by the department.

The Rice Certification Committee is established which will consist of nine members including the department director; three members appointed by the department director to represent rice handlers, biotechnology industry, and end rice users; and six members recommended by the Missouri Rice Research and Merchandising Council representing rice producers, university scientists, rice mill operators, and rice seed dealers. The committee must:

- (1) Identify rice varieties with characteristics of commercial impact;
- (2) Develop rules to be established by the department regarding the production and handling of rice varieties with characteristics of commercial impact;
- (3) Review rice identity preservation programs;
- (4) Review at least every two years or upon receipt of a petition from the supplier of the rice each rice variety having characteristics of commercial impact;
- (5) Review, approve, and make recommendations on any rules and policies developed by the department relating to rice; and
- (6) Make recommendations to the department director on all

matters regarding the enforcement of the act.

The department is required to establish rules:

- (1) Preventing the contamination of rice that has not been identified as having characteristics of commercial impact;
- (2) Requiring certain notifications for producers, transporters, and receivers of rice with characteristics of commercial impact;
- (3) Enforcing restrictions on rice with characteristics of commercial impact;
- (4) Investigating alleged violations, issuing written notices of violation, and imposing penalties for violations; and
- (5) Encouraging research and development of new types of rice.

Any person violating a rule established by the department regarding this act will be subject to a fine between \$10,000 and \$100,000 per day per violation.

The provisions concerning the Rice Certification Act become effective 180 days after the effective date of the substitute.

The provisions of the substitute regarding the state and local sales and use tax exemption on fencing materials contain an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$1,941,477 to \$10,991,477 in FY 2008, \$2,649,840 to \$17,806,892 in FY 2009, and \$2,703,836 to \$24,380,639 in FY 2010. No impact on Other State Funds in FY 2008, FY 2009, and FY 2010.

PROPOSERS: Supporters say that if the federal National Animal Identification System (NAIS) is mandatory, it will not afford participants any premium pricing because there will be no distinction for required participation. Any NAIS program should to be voluntary, not interfere with private programs, and be administered at the state level.

Testifying for the bill were Senator Purgason; Ronald Conway; Lynn Conway; Ray Cunio, Citizens for Private Property Rights; Doreen Hannes; Missouri Federation of Animal Owners; Russell Wood, Ozark Property Rights Congress; and Sara Cox.

OPPOSERS: Those who oppose the bill say that the bill will disqualify Missouri livestock from interstate and foreign markets. The information required by the NAIS program is not burdensome to producers and proven to be necessary by the hoof

and mouth disease outbreak experienced in Europe. NAIS provides countries purchasing meat from the United States with health assurances that if absent would preclude the purchases from occurring. The market dictates the need for the NAIS program not the government.

Testifying against the bill were Missouri Cattlemens Association; Anthony Clayton, Clayton Agri-Marketing; Steve Huth; Mike John, MFA, Incorporated; Missouri Agribusiness Association; Don Nikodim, Missouri Pork Producers Association; Dave Drennan, Missouri Dairy Association; and Missouri Farm Bureau.

OTHERS: Others testifying on the bill say that if Missouri does not adopt federal directives to control disease, it will lose the disease-free status currently being enjoyed by producers and result in extensive disease testing. NAIS information is required by World Trade Organization policy, cannot be expunged; and if not available, disqualifies livestock from export. Federal funds received by the state for administering the NAIS program would be lost as well as state control of the program if the Department of Agriculture is prohibited from participating in the program.

Testifying on the bill were Missouri Veterinary Medical Association; Taylor Woods, Acting State Veterinarian; and Department of Agriculture.