

LIVESTOCK GROWTH & PROPERTY RIGHTS

Nebraska, like all states, has a private property and nuisance laws, which are terms used to describe laws which protect agricultural producers from “nuisance” lawsuits. A conversation about strengthening our private property rights is warranted given outside threats, which we’ve seen recently in states like North Carolina – where hog growers are being sued by neighbors that are funded by activists. In 2014, two dozen lawsuits involving more than 500 plaintiffs were filed against Murphy-Brown LLC, a Smithfield Foods subsidiary, alleging that some of the company’s lagoon-utilizing farms created a nuisance for neighboring homes and seeking compensatory and punitive damages, as well as injunctive relief.

The North Carolina Legislature responded to this surge of activism by limiting the liability of hog farms in any future nuisance lawsuits. The new law caps the compensatory damages that may be awarded to a plaintiff bringing a nuisance action to either the reduction in fair market value of a property, if the nuisance is permanent, or to the diminution of the property’s fair rental value, if the nuisance is temporary.

Concerns in Nebraska:

1. Nebraska currently does not cap damages in a nuisance suit. While there are questions as to whether such a cap would be constitutional, the lawsuits in North Carolina, in many cases, looked more like personal injury lawsuits, which are often subject to caps and statutes of limitation. For instance, Nebraska law sets a time limit of four years on filing personal injury cases in the state’s civil court system.
2. Nebraska currently does not have a statute of limitations for filing a nuisance suit, meaning if an operation changes or expands and is under operation for a number of years, neighbors could, in theory, file a suit at any time.
3. It is unclear if a farm or ranch would be shielded from a nuisance suit if the agricultural operation is converted from one type of agriculture production to another (e.g. cropland to livestock facility) or other changes are implemented, such as adoption of new technology, size, or the ownership of the operation.



NEFB Policy

Farmers and ranchers should be protected from protests and court suits relating to dust, noise, odors, and other environmental factors when the farming or ranching enterprise was located in an area prior to new non-agricultural development, including nature areas, bike trails, and recreational areas. We believe citizens moving to the country should have to read, acknowledge, and sign a document outlining normal farming procedures, activities, and other realities related to country living prior to purchasing real estate or receiving any building permits from the county.

Nebraska Farm Bureau supports the right to farm through the development of all necessary statutory language that adequately protects agriculture producers and their ability to use accepted farming and ranching practices. Only after necessary statutory language has passed, would Nebraska Farm Bureau consider a Right to Farm constitutional amendment.

Questions:

1. Should Farm Bureau policy support strengthening private property and nuisance laws by providing for a statute of limitations?
2. Should Farm Bureau policy support capping damages in nuisance cases?
3. Should Farm Bureau policy support enhancing private property rights and nuisance protections in situations where agricultural land is converted from one type of agricultural operation to another type of agricultural operation, there’s a change in ownership or size, or there’s adoption of new technology?