



# FACT SHEET

## RIGHT-TO-FARM LAWS

### DESCRIPTION

Right-to-farm laws are designed to accomplish one or both of the following objectives: (1) to strengthen the legal position of farmers when neighbors sue them for private nuisance; and (2) to protect farmers from anti-nuisance ordinances and unreasonable controls on farming operations. Most laws include a number of additional protections. Right-to-farm provisions may also be included in state zoning enabling laws, and farmers with land enrolled in an agricultural district may have stronger right-to-farm protection than other farmers. A growing number of counties and municipalities are passing their own right-to-farm legislation to supplement the protection provided by state law.

The common law of nuisance forbids individuals from using their property in a way that causes harm to others. A private nuisance refers to an activity that interferes with an individual's reasonable use or enjoyment of his or her property. A public nuisance is an activity that threatens the public health, safety or welfare, or damages community resources, such as public roads, parks and water supplies.

A successful nuisance lawsuit results in an injunction, which stops the activity causing the nuisance, provides monetary compensation, or both. In a private nuisance lawsuit involving complaints against a farming operation, the court must decide whether the farm practices at issue are unreasonable. To make this decision, courts generally weigh the importance of the activity to the farmer against the extent of harm to the neighbor or community, taking into account the following factors:

- The degree of harm and its duration, permanence and character: Is it continuous or sporadic? Is it a threat to health, or simply a minor annoyance?
- The social value that state and local law places on both farming and the type of neighboring use that has been harmed;

- The suitability of the two sets of uses to the character of the locality; and
- The ease with which the neighbor could avoid the harm, and the farmer's ability to prevent or minimize the undesirable external effects of the farming operation.\*

One of the most important issues is whether the person bringing the lawsuit should have been able to anticipate the problem, and thus has assumed the risk of injury. If the farm was in operation before the person with the complaint moved to the neighborhood, the farmer may argue that the plaintiff "came to the nuisance." In most states, "coming to the nuisance" does not necessarily prevent farm neighbors from winning in court, but a farmer usually has a stronger legal case if his or her operation was there before the plaintiff moved to the area. Right-to-farm laws give farmers a legal defense against nuisance suits; the strength of that defense depends on the provisions of the law and the circumstances of the case.

### HISTORY

Between 1963, when Kansas enacted a law to protect feedlots from litigation, and 1994, when Utah included right-to-farm protections in its agricultural district law, every state in the Union enacted some form of right-to-farm law. Several states have enacted two types of right-to-farm legislation, and Minnesota and Iowa have enacted three.

### FUNCTIONS & PURPOSES

Right-to-farm laws are intended to discourage neighbors from suing farmers. They help established farmers who use good management practices prevail in private nuisance lawsuits. They document the importance of farming to the state or locality and put non-farm rural residents on notice that generally accepted agricultural practices are reasonable activities to expect in farming areas. Some of these laws also limit the ability of newcomers to change the local rules that govern farming.



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Local right-to-farm laws often serve an additional purpose: They provide farm families with a psychological sense of security that farming is a valued and accepted activity in their communities.

\* American Law Institute, Restatement of Torts (Second) (St. Paul, Minn., 1982), Sections 827-828.

## RIGHT-TO-FARM LAWS

*For additional information on right-to-farm laws and farmland protection, the Farmland Information Center offers publications, an on-line library and technical assistance. To order **Right-to-Farm Laws: What Works**, a 28-page comprehensive technical report (\$9.95), or other AFT publications, call (800) 370-4879. The farmland information library is a searchable database of literature, abstracts, statutes, maps, legislative updates and other useful resources. It can be reached at <http://www.farmlandinfo.org>. For additional assistance on specific topics, call the technical assistance service at (413) 586-4593.*

Source: American Farmland Trust, *Saving American Farmland: What Works* (Northampton, Mass., 1997).