Citing the need for more legal and insurance stability for the state’s livestock industry, Iowa lawmakers have passed legislation designed to limit liability damages in cases filed by unhappy neighbors against producers.

“[It] provides a minimum level of protection for livestock producers that are following good management practices, but leaves the bad actors unprotected,” Sen. Dan Zumbach says of SF 447 [2], which was signed into law in March.

The measure allows for an affirmative defense and limits compensatory damages when an animal feeding operation is alleged to be a nuisance or otherwise interfere with a person’s enjoyment of life or property.

These protections — the affirmative defense (which allows the producer to provide facts that allay the legal consequences of the nuisance) and the damage limit — apply regardless of when an operation was built or expanded.

“One of the reasons that the legislation was introduced was industry instability due to the increasing cost of liability insurance,” Zumbach says.

“Bad actors” won’t be protected, he adds, because the new law only protects livestock facilities that employ “prudent and generally utilized management practices.”

Under SF 447, facilities found by a court to be a nuisance will be classified as a “permanent nuisance” rather than as a “temporary nuisance” (meaning they could not be sued again by the same plaintiff for continuing issues). In these cases, a complainant is eligible for three types of damages: compensatory damages due to negative changes in the fair market value of their property; damages due to adverse health conditions; and “compensatory special damages.”

New limits are placed on the amount of “compensatory special damages” caused by the livestock operations — for example, the “loss of comfortable use and enjoyment of real property.” The amount of “special” damages cannot exceed one and one-half times the total sum awarded for an operation’s impact on a neighbor’s property value and health.

Farm income accounts for more than one-fifth of Iowa’s gross domestic product, and a big part of that economic activity is in the livestock industry.

According to the U.S. Department of Agriculture, the state leads the nation in hog and pig production and ranks near the top for cattle and calves; in 2012, Iowa’s total value of livestock, poultry and related products topped $13 billion a year (second in the nation).

Support for agriculture-related bills in Iowa often cuts across partisan lines, but this was not the case with SF 447, which generated extensive floor debate and amendments proposed by Democrats and defeated by Republicans (the GOP holds majorities in both of Iowa’s legislative chambers).

Under an amendment offered by Sen. Rita Hart, for example, confined animal feeding operations would have had to use siting recommendations from Iowa State University in order to be covered by this legislation. Another rejected amendment was aimed at protecting existing homeowners by exempting them from the new law if they were suing a facility constructed after their home was built.

One change was made, however, as SF 447 made its way toward passage. Language that would have required neighbors who sue and lose in court to pay the producer’s legal fees was removed. Still, opponents of the law say it will diminish local authority to regulate livestock operations and reduce residents’ legal rights by capping special
damages.

Supporters of the law hope it will reduce the number of “nuisance” lawsuits in Iowa. Des Moines-based attorney Eldon McAfee, whose practice focuses on agriculture law, says there currently are at least eight active nuisance lawsuits involving Iowa livestock producers. There were 12 at this time last year, he says, compared to an average of three or four per year a few years ago.

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