



Don't Place Factory Farms Above the Law

OPPOSE SENATE BILL 72

("Right to Farm and Operations as Nuisance")

WHAT DOES SB 72 DO?

This bill aims to protect previously established farms from plaintiffs "moving to the nuisance" in order to bring a nuisance lawsuit, but it also would prevent a neighbor from seeking legal recourse for a legitimate complaints if a neighboring small farm turns into a harmful industrial factory farm. In order for any nuisance claim to be brought, the preexisting farm must have changed in both "nature" (purpose or function) and "scope" (extent or capacity)—**creating a nearly impossibly high obstacle to a neighbor's attempt to find relief from genuine anguish and loss of use of their property.**

WHAT IS THE RESULT OF SB 72?

Scenario	Analysis under SB 72	Result
A small 50-hog family farm develops into a 2,000-hog factory farm	Change in scope, but not nature (purpose remains a hog operation)	Neighbor has no recourse
A medium-sized hay field turns into a medium-sized broiler chicken barn	Change in nature, but not scope (extent of the operations is the same)	Neighbor has no recourse
A cattle rancher maintains a small beef operation but doubles grazing acreage	Probably not a change in nature or scope ("scope" of operation may not mean size)	Neighbor has no recourse

WILL CHANGING THE BILL LANGUAGE FROM "NATURE AND SCOPE" TO "NATURE OR SCOPE" TREAT FAMILY FARMS UNFAIRLY?

No. In many cases, while an agricultural facility may change in nature or scope, a court may indeed find that no nuisance has occurred based on the facts. But SB 72 as written would almost always prevent a court from even examining the facts of the case to resolve disputes and ensure equitable treatment of both parties.

Animal Protection Voters supports a simple amendment to change "nature and scope" to "nature or scope."

WHAT'S WRONG WITH FACTORY FARMS?

Most of the nuisances that come from factory farms—enormous industrial operations that raise massive numbers of animals in conditions to maximize production, not uncommonly at the expense of animal welfare—are due to the intense confinement of large livestock populations. These factory farms often put the smaller, more environmentally friendly and animal welfare-minded family farms at a commercial disadvantage.

WHAT TYPES OF NUISANCES COME FROM FACTORY FARMS?

Right to Farm laws were originally meant to protect small farmers in rural communities from unjustified complaints from neighbors who objected to trivialities like occasional dust from tractors or intermittent spreading of manure to fertilize fields. **But these laws should not provide blanket immunity for large factory farms from the legitimate complaints** of neighbors—often disadvantaged rural families—who have seen small farms rapidly expand into industrial operations, ruining their quality of life in ways such as:

- Constant unbearable odors from manure sprayed into the air onto oversaturated fields and seeps onto neighboring properties;
- Chronic respiratory issues, headaches and nausea from airborne irritants;
- Hordes of flies so intolerable as to prevent opening their windows or engaging in outdoor activities; and
- Worry that their ground water could become contaminated with animal waste collecting in lagoons.

OTHERS OPPOSING SENATE BILL 72: New Mexico Center on Law and Poverty, Food & Water Watch, Sierra Club Rio Grande Chapter, Interfaith Workers Justice