

AMENDMENTS TO LB227

(Amendments to Standing Committee amendments, AM746)

Introduced by Hughes, 44.

1 1. Strike amendment 1 and insert the following new amendment:

2 1. Strike the original sections and insert the following new
3 sections:

4 Section 1. Section 2-4401, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 2-4401 Sections 2-4401 to 2-4404 and sections 3, 4, and 5 of this
7 act shall be known and may be cited as the Nebraska Right to Farm Act.

8 Sec. 2. Section 2-4403, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 2-4403 A farm or farm operation or a public grain warehouse or
11 public grain warehouse operation shall not be found to be a public or
12 private nuisance if:

13 (1) The ~~the~~ farm or farm operation or public grain warehouse or
14 public grain warehouse operation existed before a change in the land use
15 or occupancy of land in and about the locality of such farm or farm
16 operation or public grain warehouse or public grain warehouse operation
17 and before such change in land use or occupancy of land the farm or farm
18 operation or public grain warehouse or public grain warehouse operation
19 would not have been a nuisance; -

20 (2) The farm or farm operation or public grain warehouse or public
21 grain warehouse operation employs reasonable techniques to mitigate
22 negative effects on the property of others, including, but not limited
23 to, reasonable techniques to keep dust, noise, insects, and odors at a
24 minimum; and

25 (3) The farm or farm operation or public grain warehouse or public
26 grain warehouse operation is in compliance with applicable laws and

1 regulations, including any zoning regulations of a local governing body.

2 Sec. 3. A farm or farm operation or public grain warehouse or
3 public grain warehouse operation shall not be found to be a public or
4 private nuisance after two years following the established date of
5 operation. For purposes of this section, established date of operation
6 means the date on which a farm or farm operation or public grain
7 warehouse or public grain warehouse operation commences operation, except
8 that if the farm or farm operation or public grain warehouse or public
9 grain warehouse operation undergoes any subsequent change, including any
10 of the following, the date of such change shall be deemed the established
11 date of operation for such change:

12 (1) The conversion from one type of farm or farm operation or public
13 grain warehouse or public grain warehouse operation to another type of
14 farm or farm operation or public grain warehouse or public grain
15 warehouse operation;

16 (2) A change in ownership or size of the farm or farm operation or
17 public grain warehouse or public grain warehouse operation;

18 (3) The enrollment, reduction, or cessation of participation in a
19 government program by the farm or farm operation or public grain
20 warehouse or public grain warehouse operation; or

21 (4) Adoption of new technology by the farm or farm operation or
22 public grain warehouse or public grain warehouse operation.

23 Sec. 4. For a period of two years after the established date of
24 operation as described in section 3 of this act, there is a rebuttable
25 presumption that a farm or farm operation or public grain warehouse or
26 public grain warehouse operation is not a public or private nuisance.

27 Sec. 5. Section 2-4404, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 ~~2-4404~~ The Nebraska Right to Farm Act Sections 2-4401 to 2-4404
30 shall not affect the application of state and federal statutes.

31 Sec. 6. Original sections 2-4401, 2-4403, and 2-4404, Reissue

1 Revised Statutes of Nebraska, are repealed.