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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 582

02/05/2015 Authored by Anderson, P.; Poppe; Gunther; Kiel and Fabian

The bill was read for the first time and referred to the Committee on Agriculture Policy

03/09/2015 Adoption of Report: Re-referred to the Committee on Civil Law and Data Practices

03/18/2015 Adoption of Report: Amended and re-referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to environment; providing for livestock production facility nuisance
1.3 claims relating to odor; amending Minnesota Statutes 2014, sections 116.0713;
1.4 561.19, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2014, section 116.0713, is amended to read:

1.7 **116.0713 LIVESTOCK ODOR.**

1.8 (a) The Pollution Control Agency must:

1.9 (1) monitor and identify potential livestock production facility violations of the state
1.10 ambient air quality standards for hydrogen sulfide, using a protocol for responding to
1.11 citizen complaints regarding feedlot odor and its hydrogen sulfide component, including
1.12 the appropriate use of portable monitoring equipment that enables monitoring staff to
1.13 follow plumes;

1.14 (2) when livestock production facilities are found to be in violation of ambient
1.15 hydrogen sulfide standards, take appropriate actions necessary to ensure compliance,
1.16 utilizing appropriate technical assistance and enforcement and penalty authorities provided
1.17 to the agency by statute and rule.

1.18 (b) Livestock production facilities are exempt from state ambient air quality
1.19 standards while manure is being removed and for seven days after manure is removed
1.20 from barns or manure storage facilities.

1.21 (c) For a livestock production facility having greater than 300 animal units, the
1.22 maximum cumulative exemption in a calendar year under paragraph (b) is 21 days for
1.23 the removal process.

2.1 (d) The operator of a livestock production facility that claims exemption from state
2.2 ambient air quality standards under paragraph (b) must provide notice of that claim to either
2.3 the Pollution Control Agency or the county feedlot officer delegated under section 116.07.

2.4 (e) State ambient air quality standards are applicable at the property boundary of a
2.5 farm or a parcel of agricultural land on which a livestock production facility is located,
2.6 except that if the owner or operator of the farm or parcel obtains an air quality easement
2.7 from the owner of land adjoining the farm or parcel, the air quality standards must be
2.8 applicable at the property boundary of the adjoining land to which the easement pertains.
2.9 The air quality easement must be for no more than five years, must be in writing, and must
2.10 be available upon request by the agency or the county feedlot officer. Notwithstanding
2.11 the provisions of this paragraph, state ambient air quality standards are applicable at
2.12 locations to which the general public has access. The "general public" does not include
2.13 employees or other categories of people who have been directly authorized by the property
2.14 owner to enter or remain on the property for a limited period of time and for a specific
2.15 purpose, or trespassers.

2.16 (f) The agency may not require air emission modeling for a type of livestock system
2.17 that has not had a hydrogen sulfide emission violation.

2.18 (g) Pursuant to section 561.19, subdivision 2a, a livestock production facility is not
2.19 and shall not be, as a matter of law, subject to a private or public nuisance claim related
2.20 to livestock odor, unless:

2.21 (1) before such claim is filed, the livestock production facility is in violation of the
2.22 state ambient air quality standards for hydrogen sulfide under paragraph (a), clause (1);

2.23 (2) the violation of the state ambient air quality standards for hydrogen sulfide under
2.24 paragraph (a), clause (1), did not occur when the livestock production facility was exempt
2.25 from the state ambient air quality standards under paragraphs (b) to (d); and

2.26 (3) at the time such claim is filed, the livestock production facility has not taken the
2.27 actions directed by the Pollution Control Agency as necessary to ensure compliance with
2.28 the state ambient air quality standards for hydrogen sulfide under paragraph (a), clause (2).

2.29 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to claims
2.30 filed on or after that date.

2.31 Sec. 2. Minnesota Statutes 2014, section 561.19, is amended by adding a subdivision
2.32 to read:

2.33 Subd. 2a. **Adverse impact required; compliance with state standards.** (a) An
2.34 agricultural operation is not and shall not be, as a matter of law, subject to a private or

3.1 public nuisance claim if that agricultural operation has no measurable adverse impact
3.2 related to the alleged nuisance on the allegedly impacted property.

3.3 (b) An agricultural operation is not and shall not be, as a matter of law, subject to a
3.4 private or public nuisance claim related to noise if that agricultural operation is operating
3.5 in compliance with the state noise standards.

3.6 (c) An agricultural operation is not and shall not be, as a matter of law, subject to a
3.7 private or public nuisance claim related to a pollutant or air contaminant in the state
3.8 ambient air quality standards if the agricultural operation is in compliance with the state
3.9 ambient air quality standards for that pollutant or air contaminant.

3.10 (d) Consistent with section 116.0713, paragraph (g), an agricultural operation is not
3.11 and shall not be, as a matter of law, subject to a private or public nuisance claim related
3.12 to livestock odor if:

3.13 (1) the Pollution Control Agency finds that the agricultural operation is in
3.14 compliance with the state ambient air quality standards for hydrogen sulfide under section
3.15 116.0713, paragraph (a), clause (1); or

3.16 (2) the Pollution Control Agency finds that the agricultural operation is in violation
3.17 of the state ambient air quality standards for hydrogen sulfide under section 116.0713,
3.18 paragraph (a), clause (1); but

3.19 (i) the violation occurred when the agricultural operation was exempt from the state
3.20 ambient air quality standards under section 116.0713, paragraphs (b) to (d); or

3.21 (ii) the agricultural operation takes appropriate actions necessary to ensure
3.22 compliance with the ambient air quality standards for hydrogen sulfide as directed by the
3.23 Pollution Control Agency under section 116.0713, paragraph (a), clause (2).

3.24 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to claims
3.25 filed on or after that date.