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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

1.1 A bill for an act
1.2 relating to real property; modifying nuisance liability of agricultural operations;
1.3 amending Minnesota Statutes 2014, section 561.19, subdivision 2.

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

1.5 Section 1. Minnesota Statutes 2014, section 561.19, subdivision 2, is amended to read:

1.6 Subd. 2. **Agricultural operation not a nuisance.** (a) An agricultural operation is
1.7 not and shall not become a private or public nuisance after two years from its established
1.8 date of operation as a matter of law if the operation:

- 1.9 (1) is located in an agriculturally zoned area;
- 1.10 (2) complies with the provisions of all applicable federal, state, or county laws,
- 1.11 regulations, rules, and ordinances and any permits issued for the agricultural operation; and
- 1.12 (3) operates according to generally accepted agricultural practices.

1.13 (b) For a period of two years from its established date of operation, there is a
1.14 rebuttable presumption that an agricultural operation in compliance with the requirements
1.15 of paragraph (a), clauses (1) to (3), is not a public or private nuisance.

1.16 (c) Except as provided in paragraphs (d) to (g), the provisions of this subdivision
1.17 do not apply:

1.18 (1) to an animal feedlot facility with a swine capacity of 1,000 or more animal units
1.19 as defined in the rules of the Pollution Control Agency for control of pollution from
1.20 animal feedlots, or a cattle capacity of 2,500 animals or more;

1.21 (2) to any prosecution for the crime of public nuisance as provided in section
1.22 609.74 or to an action by a public authority to abate a particular condition which is a
1.23 public nuisance; or

2.1 (3) to any enforcement action brought by a local unit of government related to
2.2 zoning under chapter 394 or 462.

2.3 (d) An agricultural operation is not and shall not be, as a matter of law, subject to a
2.4 pending or future private or public nuisance claim if that agricultural operation has no
2.5 measurable adverse impact related to the alleged nuisance on the allegedly impacted
2.6 property.

2.7 (e) An agricultural operation is not and shall not be, as a matter of law, subject to
2.8 a pending or future private or public nuisance claim related to noise if that agricultural
2.9 operation is operating in compliance with the state noise standards.

2.10 (f) An agricultural operation is not and shall not be, as a matter of law, subject to a
2.11 pending or future private or public nuisance claim related to a pollutant or air contaminant
2.12 in the state ambient air quality standards if the agricultural operation is in compliance with
2.13 the state ambient air quality standards for that pollutant or air contaminant.

2.14 (g) An agricultural operation is not and shall not be, as a matter of law, subject to a
2.15 pending or future private or public nuisance claim related to livestock odor if:

2.16 (1) the Pollution Control Agency finds that the agricultural operation is in
2.17 compliance with the state ambient air quality standards for hydrogen sulfide under section
2.18 116.0713, paragraph (a), clause (1); or

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

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

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