

**File Number:** H.F. 1221  
**Version:** As introduced

**Date:** March 1, 2017

**Authors:** Anderson, P. and others

**Subject:** Nuisance lawsuits; farms

**Analyst:** Colbey Sullivan

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: [www.house.mn/hrd/](http://www.house.mn/hrd/).

### Overview

This bill modifies the state “Right-to-Farm” law and establishes a new “farmer-neighbor mediation” process. Under current law, certain farms are protected from civil lawsuits alleging that the farm is a nuisance if the farm: has been operating for at least two years without a significant expansion or alteration, is located in an area zoned for agricultural uses, complies with all applicable laws and permits, and is operated in a manner consistent with other farms in the area.

However the law does not apply to farms with the capacity to hold more than a specified number of swine (1,000 animal units) or cattle (2,500 animals). An “animal unit” is the regulatory measure of a livestock species’ manure-production potential. For example, 1,000 animal units of swine equates to 2,500 to 20,000 animals, depending upon the weight of each individual animal (Minn. Rules, part 7020.0300, subpart 5).

#### Section

- 1**      **Agricultural operation not a nuisance.** Removes a provision that excludes from “Right-To-Farm” nuisance lawsuit protection any feedlot with a swine capacity of 1,000 or more animal units or cattle capacity of 2,500 or more animals. Provides that civil legal proceedings/lawsuits against an agricultural operation are subject to the new “farmer-neighbor mediation” requirements established in subsequent sections of this bill.
- 2 to 14**      **Farmer-Neighbor Mediation Act.** Establishes a process for mediating disputes between farmers and parties who would otherwise file a nuisance lawsuit against a farmer. The

## **Section**

proposed mediation process, as established in sections 2 to 14, is based on the existing Farmer-Lender Mediation Act in Minnesota Statutes, chapter 583.

A party that intends to file a civil nuisance lawsuit against a farm would be required to first offer to mediate the dispute with the farmer. As in the Farmer-Lender Mediation Act, University of Minnesota Extension (“Extension”) would coordinate the mediation process. If Extension receives a mediation request from the other party, a mediator must conduct a consultation and inform the party of the litigation risks involved in commencing a civil proceeding to resolve the dispute. If the farmer chooses to participate in mediation, Extension would schedule a mediation proceeding to be held no less than 30 days after Extension sends the parties a mediation proceeding notice. The other party would be required to file with Extension and serve on the farmer a detailed statement explaining the nuisance conditions, a report from a qualified expert that provides the scientific basis for why the conditions constitute nuisance, and a statement detailing why any settlement efforts conducted to date were futile. If no agreement is reached at the mediation proceeding, the farmer or the other party could request that an additional mediation proceeding be held at least 30 days after the initial proceeding.

If no agreement is reached between the farmer and the other party, the mediator would issue a mediation release form unless the other party fails to personally attend and participate in all mediation proceedings. If the farmer waives the right to mediation or fails to attend the mediation proceedings, the mediator must issue the mediation release form regardless of whether the other party attended the mediation meetings or not.

Both the farmer and the other party would be required to mediate in good faith. The other party would not be participating in good faith if it refuses to accept measures proposed by the farmer that could mitigate the conditions that the other party alleges constitute a nuisance, unless the other party provides justification for this refusal.

If and when Extension issues a mediation release form, the other party could proceed with its nuisance suit against the farmer.