

Senate File 447 - Enrolled

Senate File 447

AN ACT

PROVIDING FOR CERTAIN COURT ACTIONS INVOLVING AN ALLEGATION OF A PUBLIC OR PRIVATE NUISANCE OR THE INTERFERENCE WITH A PERSON'S COMFORTABLE USE AND ENJOYMENT OF LIFE OR PROPERTY CAUSED BY AN ANIMAL FEEDING OPERATION, PROVIDING FOR THE AWARD OF DAMAGES, COSTS, AND EXPENSES, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 657.11A Animal agriculture — promotion of responsible animal feeding operations.

1. *a. Findings.* The general assembly finds that important public interests are advanced by preserving and encouraging the expansion of responsible animal agricultural production in this state which provides employment opportunities in and economic

growth for rural Iowa, contributes tax revenues to the state and to local communities, and protects our valuable natural resources.

b. Purpose. The purpose of this section is to encourage persons involved in animal agriculture to adopt existing prudent and generally utilized management practices for their animal feeding operations, thereby enhancing the fundamental role of animal agriculture in this state by providing a reasonable level of protection to persons engaged in animal agricultural production from certain types of nuisance actions.

c. Declaration. The general assembly has balanced all competing interests and declares its intent to preserve and enhance responsible animal agricultural production, specifically animal agricultural producers in this state who use existing prudent and generally utilized management practices reasonable for their animal feeding operations.

2. Except as otherwise provided by this section, an animal feeding operation, as defined in section 459.102, found to be a public or private nuisance under this chapter or under principles of common law, or found to interfere with another person's comfortable use and enjoyment of the person's life or property under any other cause of action, shall be conclusively presumed to be a permanent nuisance and not a temporary or continuing nuisance under principles of common law, and shall be subject to compensatory damages only as provided in subsection 3.

3. Compensatory damages awarded to a person bringing an action alleging that an animal feeding operation is a public or private nuisance, or an interference with the person's comfortable use and enjoyment of the person's life or property under any other cause of action, shall not exceed the following:

a. The person's share of compensatory property damages due to any diminution in the fair market value of the person's real property proximately caused by the animal feeding operation. The fair market value of the real property is deemed to equal the price that a buyer who is willing but not compelled to buy and a seller who is willing but not compelled to sell

would accept for the real property. The person's share of any compensatory property damages must be based on the person's share of the ownership interest in the real property. For purposes of this section, ownership interest means holding legal or equitable title to real property in fee simple, as a life estate, or as a leasehold interest.

b. The person's compensatory damages due to the person's past, present, and future adverse health condition. This determination shall be made utilizing only objective and documented medical evidence that the nuisance or interference with the comfortable use and enjoyment of the person's life or property was the proximate cause of the person's adverse health condition.

c. The person's compensatory special damages proximately caused by the animal feeding operation, including without limitation, annoyance and the loss of comfortable use and enjoyment of real property. However, the total damages awarded to a person under this paragraph "c" shall not exceed one and one-half times the sum of any damages awarded to the person for the person's share of the total compensatory property damages awarded under paragraph "a" plus any compensatory damages awarded to the person under paragraph "b".

4. This section shall apply to an animal feeding operation in the same manner as section 657.11, subsections 4 and 5.

5. This section shall not apply if the person bringing the action proves that the public or private nuisance or interference with another person's comfortable use and enjoyment of the person's life or property under any other cause of action is proximately caused by any of the following:

a. The failure to comply with a federal statute or regulation or a state statute or rule which applies to the animal feeding operation.

b. The failure to use existing prudent generally utilized management practices reasonable for the animal feeding operation.

6. This section does not apply to a person during the time in which the person is classified as a habitual violator pursuant to section 459.604.

7. This section does not apply to a cause of action that

accrued prior to the effective date of this Act.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

JACK WHITVER
President of the Senate

LINDA UPMAYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 447, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2017

TERRY E. BRANSTAD
Governor