

Senate File 495 - Introduced

SENATE FILE 495
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SF 279)

(COMPANION TO HF 645 BY COMMITTEE
ON LOCAL GOVERNMENT)

A BILL FOR

1 An Act relating to nuisance actions against sports or exposition
2 venues.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **657.13 Sport and exposition venues**
2 — **immunity.**

3 1. As used in this section, "*sports or exposition venue*"
4 means a venue where competitive sporting events occur involving
5 motorized vehicles, whether for racing or nonracing competition,
6 or competitive athletic events, and also includes large public
7 exhibitions of art or trade goods, trade fairs, display shows,
8 presentation, and demonstration exhibits, and includes the
9 venue's owners, agents, employees, and contractors.

10 2. A person shall not file a nuisance action to recover
11 damages in which an event at a sports or exposition venue is
12 alleged to be a public or private nuisance unless all of the
13 following are true:

14 a. The person is the majority owner of the real property
15 allegedly adversely affected by a competitive sporting or
16 exposition event.

17 b. The sporting or exposition event has materially violated a
18 federal, state, or local law.

19 3. A sports or exposition venue within the state which has
20 been in operation for a period of more than one year shall not
21 be considered a public or private nuisance as the result of a
22 changed condition in or about the locality where the sports or
23 exposition venue is located. In any public or private nuisance
24 action against a sports or exposition venue, proof that the
25 sports or exposition venue has operated for one or more years is
26 an absolute defense to the action, provided that the operation is
27 in compliance with all applicable federal, state, and local laws,
28 regulations, and permits.

29 4. A state or local agency shall not bring a criminal or
30 civil action against a sports or exposition venue for an activity
31 that is in material compliance with all applicable state and
32 local laws, regulations, and permits.

33 5. A sports or exposition venue shall not be or become a
34 private or public nuisance if the operators are conducting the
35 sports or exposition venue operation in a manner consistent with

1 commonly accepted practice. If the sports or exposition venue
2 operation is in material compliance with all applicable federal,
3 state, and local laws, regulations, and permits, the sports or
4 exposition venue operation shall be presumed to be conducted in
5 a manner consistent with commonly accepted practices of sports or
6 exposition venue operations.

7 6. a. A sports or exposition venue shall not be considered
8 a public or private nuisance if the sports or exposition venue
9 makes a reasonable expansion, provided that the sports or
10 exposition venue operation is in material compliance with all
11 applicable state and federal laws, regulations, and permits.

12 b. For the purpose of this subsection, a reasonable expansion
13 includes all of the following:

14 (1) Transfer of the sports or exposition venue operation.

15 (2) Purchase of additional land for the sports or exposition
16 venue.

17 (3) Introducing technology to an existing sports or
18 exposition venue operation, including new activities, practices,
19 equipment, and procedures consistent with technological
20 development within the sports or exposition venue industry.

21 (4) Any other change that is related and applied to an
22 existing sports or exposition venue, so long as the change does
23 not affect the sports or exposition venue's compliance with
24 applicable state and federal laws, regulations, and permits.

25 c. The reasonable expansion exemption provided by this
26 subsection shall not apply to an expansion that:

27 (1) Creates a substantially adverse effect upon the
28 environment.

29 (2) Creates a hazard to public health and safety.

30 7. If a sports or exposition venue operation situated
31 outside of a municipality's corporate boundaries is subsequently
32 annexed or otherwise brought within the municipality's corporate
33 boundaries, the requirements of the municipality do not apply to
34 the sports or exposition venue operation.

35 8. A sports or exposition venue operation shall not become

1 a private or public nuisance after the sports or exposition
2 venue has been in operation for more than one year, if the
3 sports or exposition venue was not a nuisance at the time the
4 operation began, and the conditions or circumstances complained
5 of as constituting the basis for the nuisance action exist
6 substantially unchanged since the established date of operation.
7 For purposes of this subsection, the established date of
8 operation is the date on which a sports or exposition venue
9 operation commenced.

10 9. This section shall not apply in any of the following
11 circumstances:

12 a. A nuisance action arises from the negligent operation of
13 any such sports or exposition venue.

14 b. A nuisance action for recovery which arises from an injury
15 or damages sustained by a person from a sports or exposition
16 venue operation or portion of a sports venue operation that is
17 conducted in violation of a federal, state, or local statute,
18 regulation, ordinance, or governmental requirement that applies
19 to the sports or exposition venue operation.

20 10. The protected status of a sports or exposition
21 venue operation, once acquired, is assignable, alienable, and
22 inheritable. The protected status of a sports or exposition
23 venue operation, once acquired, shall not be waived by the
24 temporary cessation of operations or by diminishing the size of
25 the operation.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to circumstances in which a sports or
30 exposition venue operation is immune from nuisance actions for
31 damages and provides for exceptions. The bill defines the term
32 "sports or exposition venue".

33 The bill provides that a person is eligible to file a nuisance
34 action to recover damages if the person is the majority owner
35 of real property that is adversely affected by a competitive

1 sporting event at the sports or exposition venue and the sports
2 or exposition venue has materially violated a law.

3 The bill provides that a venue that has been in operation for
4 more than a year is not a nuisance as a result of a changed
5 condition in the locality where the sports or exposition venue
6 is located. The bill provides that this provision is an absolute
7 defense provided that the sports and exposition venue operation
8 is in compliance with all applicable laws, regulations, and
9 permits.

10 The bill prohibits a state or local agency from bringing an
11 action against a sports or exposition venue operation for an
12 activity that is in material compliance with all applicable laws,
13 regulations, and permits.

14 The bill provides that a sports or exposition venue operation
15 shall not be deemed a nuisance if the sports or exposition
16 venue is operated in a manner consistent with commonly accepted
17 industry practice.

18 The bill provides that a reasonable expansion of a sports
19 or exposition venue operation shall not be considered grounds
20 for a nuisance action against the sports or exposition venue.
21 A reasonable expansion includes: the transfer of the sports
22 or exposition venue operation, purchase of additional land for
23 the sports or exposition venue, introducing technology to an
24 existing sports or exposition venue, and any other change that
25 is related and applied to an existing sports or exposition venue.
26 A reasonable expansion does not include an expansion that creates
27 a substantially adverse effect upon the environment or hazard to
28 public health and safety.

29 The bill provides that if a sports or exposition venue
30 operation is annexed or brought within a municipality's
31 corporate boundaries of a municipality, the requirements of the
32 municipality do not apply to the existing sports or exposition
33 venue operation.

34 The bill prohibits a sports or exposition venue operation from
35 becoming a nuisance after it has been in operation for more than

1 one year, if the operation was not a nuisance at the time the
2 operation began, and the conditions or circumstances complained
3 of as constituting the basis for the nuisance action exist
4 substantially unchanged since the established date of operation.

5 The bill does not apply to any nuisance action arising from
6 a negligent operation of such sports or exposition venue or
7 a nuisance action arising from injuries or damages sustained
8 from violation of law, regulation, ordinance, or requirements
9 that applies motor sports or exposition venues by the sports or
10 exposition venue.

11 The bill provides that protected status of a sports or
12 exposition venue operation may not be waived once acquired but
13 is assignable, alienable, and inheritable.