Right to Farm

REBECCA DROBIS

Kansas enacted the first Right-to-Farm law in 1963 to protect feedlots from litigation. Today, all 50 states have passed some form of Right-to-Farm act. While each state has its own statutory language, overall these acts are meant to protect qualifying farmers from lawsuits, nuisance complaints, and unreasonable regulations. Right-to-Farm provisions also may be included in state zoning enabling laws and addressed in Agricultural District programs. Some local governments have enacted their own ordinances to strengthen and clarify language in state law and to educate residents about agricultural activities.

When new residents move into rural areas, they often do not expect the sounds, smells, dust, inputs, and insects that come with working farms. Right-to-Farm laws are meant to protect established farmers from public nuisance suits filed by neighbors who seek to stop or change farming operations—typically limited to operations that follow generally accepted or best management practices.

Virginia Program Description

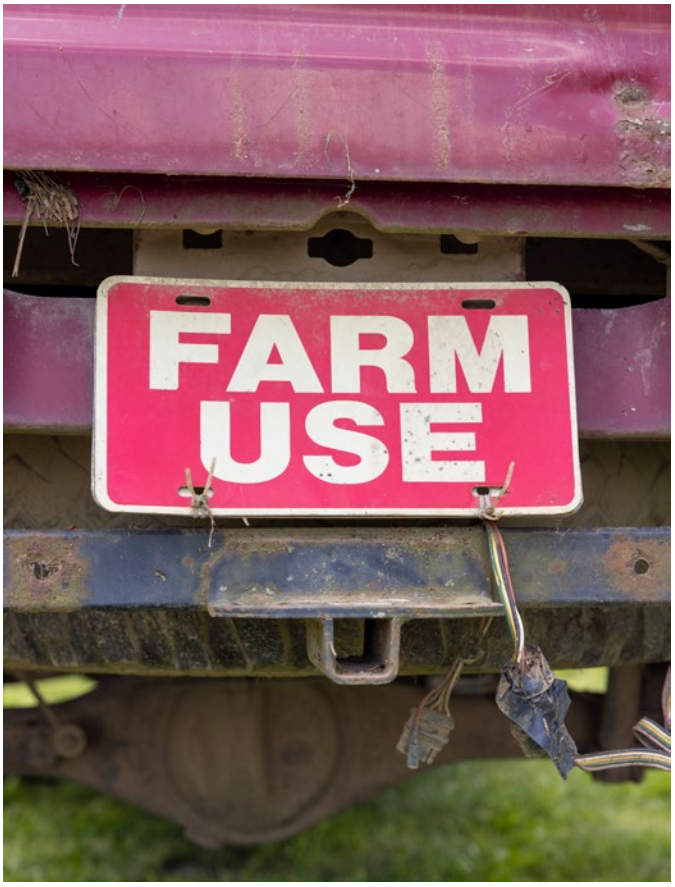
PURPOSE

Virginia's Right-to-Farm Act was enacted in 1981 and became effective in 1995 to protect farmers from baseless nuisance suits and significant and unfair judgments.

HOW IT WORKS

According to the Code of Virginia 3.2-300 definitions, the Right-to-Farm Act applies to agricultural operations located in an area zoned as an agricultural district or classification who are in "substantial compliance" with laws and regulations and who follow best management practices. Operations include farms devoted to the "bona fide" production of crops, animals, and poultry, including food production (fruits, vegetables, nuts, meat, dairy), tobacco, nursery, silviculture, and floral products. It does not protect operations that pollute streams or water, or that cause overflow onto someone else's land.

The Act limits local governments from enacting zoning or other ordinances that unreasonably restrict or regulate farming (and forestry) practices or structures in an agricultural district or classification unless such restrictions bear a relationship to the health, safety, and general welfare of its citizens. Localities may adopt requirements like setbacks and minimum area requirements, so long as they do not unreasonably interfere with farming operations.



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Recent amendments limit filing a nuisance suit to people with an ownership interest in the property and prevent suits from people who knew about the farm when their occupancy began. If the agricultural operation is found liable, damages are limited to the reduction of the fair market value of the property of the person filing suit.

CONSIDERATIONS

Virginia's Right-to-Farm law is meant to protect farmers from frivolous complaints and nuisance lawsuits from neighbors who knew about the operation when their occupancy began. It does not protect against claims of negligence or issues like trespassing. It constrains local governments from limiting operations they deem to be nuisances and prevents them from requiring a special use permit for farming activities in agricultural zones.

While statutes sometimes hold up in court, this is not always the case. Some consider the law unfair because only affected landowners can sue, leaving out renters and other family members who claim negative effects.

To Learn More

- Code of Virginia Chapter 3 Right to Farm
- National Agricultural Law Center: "State Right to Farm Provisions"
- One Rural: "Virginia's Right-to-Farm Summary"