Right-to-Farm Laws: What Do They All Mean?

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Poultry Symposium, Wye Mills
May 10, 2017
The Agriculture Law Education Initiative (ALEI) is a collaboration of the Francis King Carey School of Law at the University of Maryland, Baltimore (UMB); the College of Agriculture & Natural Resources at the University of Maryland, College Park (UMCP); and the School of Agricultural and Natural Sciences at the University of Maryland Eastern Shore. ALEI is an initiative of the University of Maryland: MPowering the State.

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This presentation is intended to provide general information and should not be construed as providing legal advice. It should not be cited or relied upon as legal authority. State laws vary and any attempt made to discuss laws of states other than Maryland is for general information to help the viewer better understand Maryland law. For advice about how these issues might apply to your individual situation, consult an attorney.
OVERVIEW
• Other discussion has been on current legal rules for poultry are
  – Dave with MDA’s role
  – Gary with MDE’s role
• My focus is on right-to-farm laws (RTF)

• RTF laws provide a limited defense for nuisance lawsuits.
WHAT DO RTF LAWS PROTECT AGAINST?
Private Nuisance

- Is a private interference with a person's enjoyment and use of his/her land

- Example:
  - Neighbor puts in concert area behind their house. Bands come and play 3 nights a week
WHAT IS A RIGHT-TO-FARM LAW THEN?
What is a Right-to-Farm Law?

- Codification of the “coming to the nuisance” defense

- Coming to the nuisance is based on the idea that the nuisance existed before the complaining party moved to the area.
What is a Right-to-Farm Law?

- All 50 states have a form of an RTF law.
- States’ RTF laws have some similar features but each different in some way.
- RTF laws create a limited exception to nuisance.
- Have to meet the statutory requirements in order to use defense
DELAWARE’S RTF LAW
• Delaware requires:
  – Operation needs to be in operation for a period of longer than 1 year

  – Nuisance can’t because of operator being negligent

  – Compliance with state and federal laws and local or county ordinances
Maryland’s RTF Law

• RTF laws are limited in scope (only providing defense to nuisance claims) but that defense can be powerful.
  – Designed to discourage neighbors from suing farmers
  – Allow farmers using good management practices to prevail in nuisance suits
  – Put non-ag residents on notice that good management practices are reasonable activities to accept in ag areas.
Maryland’s RTF Law

• RTF law will only apply if certain conditions are met:
  1. Need to be an agricultural or silvicultural operation, either:
     a. Processes crops;
     b. On-farm production; or
     c. Harvesting or marketing of any agricultural, horticultural, silvicultural, apicultural, or product that was grown, raised, or cultivated by the producer.
  2. Been in operation for 365 days; and
  3. Be in compliance with all applicable laws, regulations, and permits.
Maryland’s RTF Law

• RTF laws only protect you from nuisance claims

• RTF laws do not protect you from violations of federal or state laws or county ordinances
WRAP-UP
• Right-to-Farm laws offer a limited defense to nuisance lawsuits.
  – The law does not provide a general defense to all violations
  – Other laws can still impact ag: enviro, zoning, etc.

• Debate in many states now is how far to extend RTF protections.
Wrap-up

• Want more info?

• Dr. Lori Lynch and I have a fact sheet out at [https://go.umd.edu/RTFMD](https://go.umd.edu/RTFMD)
  – Provide feedback, we are currently updating it.

• Or look at [http://go.umd.edu/RTFTag](http://go.umd.edu/RTFTag)
Thanks!
Any Questions?

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