

# HOUSE BILL No. 1472

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-11-2-6; IC 32-30-6-9.

**Synopsis:** Right to farm. Provides that an agricultural or industrial operation is negligent if the person or persons that own, operate, manage, or otherwise control the operation fail to use reasonable care in any of the following aspects relating to the operation: (1) Siting. (2) Design. (3) Construction. (4) Management. (5) Control. (6) Operation. (7) Change to the size or type of operation. Makes findings of the general assembly relating to agricultural operations.

**Effective:** July 1, 2021.

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## Errington, Saunders

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January 14, 2021, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1472

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-11-2-6, AS AMENDED BY P.L.25-2014,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 6. (a) The general assembly declares that it is the  
4 policy of the state to conserve, protect, and encourage the development  
5 and improvement of agriculture, agricultural businesses, and  
6 agricultural land for the production of food, fuel, fiber, and other  
7 agricultural products. ~~The Indiana Code shall be construed to protect~~  
8 ~~the rights of farmers to choose among all generally accepted farming~~  
9 ~~and livestock production practices, including the use of ever changing~~  
10 ~~technology.~~

11 (b) The department shall promote the growth of agricultural  
12 businesses by doing the following:

13 (1) Assisting agricultural businesses with the permit process  
14 required to conduct business in Indiana.

15 (2) Serving as a liaison between agricultural businesses, state  
16 agencies, and local units of government.

17 SECTION 2. IC 32-30-6-9, AS AMENDED BY P.L.23-2005,



1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2021]: Sec. 9. (a) This section does not apply if a nuisance  
 3 results ~~from due to~~ the ~~negligent operation~~ **negligence** of an  
 4 agricultural or industrial operation or its appurtenances. **An**  
 5 **agricultural or industrial operation is negligent if the person or**  
 6 **persons that own, operate, manage, or otherwise control the**  
 7 **operation fail to use reasonable care in any of the following aspects**  
 8 **relating to the operation:**

9 (1) **Siting.**

10 (2) **Design.**

11 (3) **Construction.**

12 (4) **Management.**

13 (5) **Control.**

14 (6) **Operation.**

15 (7) **Change to the size or type of operation.**

16 (b) The general assembly declares that it is the policy of the state to  
 17 conserve, protect, and encourage the development and improvement of  
 18 its agricultural land for the production of food and other agricultural  
 19 products **while also protecting the quality of life, land values, and**  
 20 **property rights of citizens in established rural communities.** The  
 21 general assembly finds that when nonagricultural land uses extend into  
 22 agricultural areas, agricultural operations ~~often~~ **may** become the  
 23 subject of nuisance suits. As a result, agricultural operations are  
 24 sometimes forced to cease operations, and ~~many persons~~ **agricultural**  
 25 **operators** may be discouraged from making investments in farm  
 26 improvements. **The general assembly also finds that agricultural**  
 27 **operations in rural communities may change in size or type to**  
 28 **become confined feeding operations or concentrated animal**  
 29 **feeding operations, which may cause surrounding landowners to be**  
 30 **subject to extreme nuisances that diminish property values and**  
 31 **interfere with the ability of landowners to continue using and**  
 32 **enjoying their property.** It is **therefore** the purpose of this section to:

33 (1) **protect the state's** ~~reduce the loss to the state of its~~  
 34 agricultural resources by limiting the circumstances under which  
 35 agricultural operations may be deemed to be a nuisance; **and**

36 (2) **ensure that the rights of established landowners are**  
 37 **considered and protected when agricultural operations make**  
 38 **changes to the type and size of the agricultural operation.**

39 (c) For purposes of this section, the continuity of an agricultural or  
 40 industrial operation shall be considered to have been interrupted when  
 41 the operation has been discontinued for more than one (1) year.

42 (d) An agricultural or industrial operation or any of its



1 appurtenances is not and does not become a nuisance, private or public,  
 2 by any changed conditions in the vicinity of the locality after the  
 3 agricultural or industrial operation, as the case may be, has been in  
 4 operation continuously on the locality for more than one (1) year if the  
 5 following conditions exist:

6 (1) There is no significant change in the type of operation. A  
 7 significant change in the type of agricultural operation does not  
 8 include the following:

9 (A) The conversion from one type of agricultural operation to  
 10 another type of agricultural operation **so long as the**  
 11 **conversion:**

12 **(i) is reasonable under the circumstances;**

13 **(ii) will not be injurious to the use and enjoyment of**  
 14 **other property in the vicinity of the locality for the**  
 15 **purposes already permitted; and**

16 **(iii) will not substantially diminish and impair property**  
 17 **values within the vicinity of the locality.**

18 (B) A change in the ownership or size of the agricultural  
 19 operation **so long as the change:**

20 **(i) is reasonable under the circumstances;**

21 **(ii) will not be injurious to the use and enjoyment of**  
 22 **other property in the vicinity of the locality for the**  
 23 **purposes already permitted; and**

24 **(iii) will not substantially diminish and impair property**  
 25 **values within the vicinity of the locality.**

26 (C) The:

27 (i) enrollment; or

28 (ii) reduction or cessation of participation;

29 of the agricultural operation in a government program.

30 (D) Adoption of new technology by the agricultural operation  
 31 **so long as the adoption of new technology:**

32 **(i) is reasonable under the circumstances;**

33 **(ii) will not be injurious to the use and enjoyment of**  
 34 **other property in the vicinity of the locality for the**  
 35 **purposes already permitted; and**

36 **(iii) will not substantially diminish and impair property**  
 37 **values within the vicinity of the locality.**

38 (2) The operation would not have been a nuisance at the time the  
 39 agricultural or industrial operation began on that locality.

