

SENATE BILL NO. 84

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

0554S.03I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 44.100 and 537.295, RSMo, and to enact in lieu thereof three new sections relating to agriculture.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 44.100 and 537.295, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as
3 sections 1.400, 44.100, and 537.295, to read as follows:

1.400. 1. This section shall be known and may be
2 cited as the "Freedom to Farm Act".

2. As used in this section, the following terms mean:

(1) "Environmental manipulation":

(a) A type of weather modification that aims to change
6 the amount or type of precipitation that falls from clouds
7 by dispersing substances into the air that serve as cloud
8 condensation or ice nuclei, which alter the microphysical
9 processes within the cloud; or

(b) Pollution or biological agents dropped from any
11 form of aircraft designed to alter the earth's atmosphere,
12 manipulate the environment, or cause harm to food supply;

(2) "Farmer" or "rancher", an individual who engages
14 in farming or ranching whether for profit or not for profit
15 or personal consumption;

(3) "Farming" or "ranching", the use or cultivation of
17 the land for production of agricultural crops, livestock or

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 livestock products, poultry or poultry products, milk or
19 dairy products, or fruit or other horticultural products;

20 (4) "Food products", any products of farming or
21 ranching that are fit for human consumption, including
22 meats, poultry, fish, dairy products, eggs, fruits and
23 vegetables, but shall not include marijuana, tobacco, or
24 alcohol products.

25 3. The right of farmers and ranchers to engage in
26 farming and ranching practices for sale or personal
27 consumption shall be guaranteed free from government
28 intervention and such practices occurring within this state
29 shall not be infringed upon by the federal government under
30 the regulation of interstate commerce.

31 4. Any department or agency of this state or of any
32 political subdivision thereof that enacts, adopts,
33 maintains, or enforces any provision of law, order,
34 ordinance, rule, regulation, policy, or other similar
35 measure that restricts farming or ranching practices for
36 sale or personal consumption shall be held civilly liable to
37 the farmer or rancher for injunctive and declaratory relief.

38 5. No provision of law, order, ordinance, rule,
39 regulation, policy, or other similar measure shall:

40 (1) Restrict the production, manufacturing,
41 distribution, or sale of any herbal, nutritional, vitamin,
42 dietary, mineral, or other supplement intended for human
43 application, absorption, or consumption; or

44 (2) Be deemed to enforce a compulsory marketing quota,
45 poundage quota, or similar policy restricting the production
46 of farming or ranching, including the implementation of
47 penalty provisions for violation of such policies.

48 6. No penalty as a result of a violation of any
49 provision of law, order, ordinance, rule, regulation,

50 policy, or similar measure enacted, adopted, maintained, or
51 enforced by any department or agency of this state or any
52 political subdivision thereof regarding the protection of
53 the environment shall require the closure of a farming or
54 ranching operation or restrict the consumption or sale of
55 food products.

56 7. Except for any license required by statute or
57 regulation before August 28, 2023, no department or agency
58 of this state or political subdivision thereof shall require
59 the licensure of an individual to operate or engage in
60 farming or ranching.

61 8. The right to access and the ability to afford food
62 products shall not be infringed upon in this state through
63 restrictions based on an individual's credit score, credit
64 worthiness, credit standing, or credit capacity, or
65 presentation of an identification card of any kind.

66 9. Any farmer or rancher of this state that sells food
67 products of his or her farming or ranching operation, which
68 are fit for human consumption at the time of sale, shall not
69 be held civilly liable for injury or death arising from a
70 condition of such food products if he or she provides the
71 following warning label on the food products:

72 "WARNING: CONSUME AT YOUR OWN RISK."

73 10. The use of any form of environmental manipulation
74 is prohibited in this state. This subsection shall not
75 prevent the use of pesticides on any farming or ranching
76 operation within this state. Any person using a form of
77 environmental manipulation shall be held civilly liable for
78 any damages, including actual damages and injunctive relief,
79 as the result of the use of such environmental manipulation.

2 44.100. 1. The emergency powers of the governor shall
be as follows:

3 (1) The provisions of this section shall be operative
4 only during the existence of a state of emergency (referred
5 to in this section as "emergency"). The existence of an
6 emergency may be proclaimed by the governor or by resolution
7 of the legislature, if the governor in his proclamation, or
8 the legislature in its resolution, finds that a natural or
9 man-made disaster of major proportions has actually occurred
10 within this state, and that the safety and welfare of the
11 inhabitants of this state require an invocation of the
12 provisions of this section;

13 (2) Any emergency, whether proclaimed by the governor
14 or by the legislature, shall terminate upon the proclamation
15 thereof by the governor, or the passage by the legislature,
16 of a resolution terminating such emergency;

17 (3) During the period that the state of emergency
18 exists or continues, the governor shall:

19 (a) Enforce and put into operation all plans, rules
20 and regulations relating to disasters and emergency
21 management of resources adopted under this law and to assume
22 direct operational control of all emergency forces and
23 volunteers in the state;

24 (b) Take action and give directions to state and local
25 law enforcement officers and agencies as may be reasonable
26 and necessary for the purpose of securing compliance with
27 the provisions of this law and with the orders, rules and
28 regulations made pursuant thereof;

29 (c) Seize, take or requisition to the extent necessary
30 to bring about the most effective protection of the public:

31 a. Any means of transportation, other than railroads
32 and railroad equipment and fuel, and all fuel necessary for
33 the propulsion thereof;

34 b. Any communication system or part thereof necessary
35 to the prompt and efficient functioning of the emergency
36 management of the state;

37 c. All stocks of fuel;

38 d. Facilities for housing, feeding and hospitalization
39 of persons, including buildings and plants;

40 (d) Control, restrict and regulate by rationing,
41 freezing, use of quotas, prohibitions on shipments, price
42 fixing, allocation or other means the use, sale or
43 distribution of [food, feed,] fuel, clothing and other
44 commodities, materials, goods or services, **except the**
45 **governor shall not have the authority to prevent farming or**
46 **ranching, as those terms are defined in section 1.400,**
47 **including restrictions on water usage on farming or ranching**
48 **operations, or otherwise restrict the availability of food**
49 **products or control the sale or distribution of food**
50 **products, as that term is defined in section 1.400,**
51 **including rights protected by subsection 8 of section 1.400**
52 **and availability of feed for the functioning of farming or**
53 **ranching operations;**

54 (e) Prescribe and direct activities in connection with
55 but not limited to use, conservation, salvage and prevention
56 of waste of materials, services and facilities, including
57 production, transportation, power and communication
58 facilities, training and supply of labor, utilization of
59 industrial plants, health and medical care, nutrition,
60 housing, including the use of existing and private
61 facilities, rehabilitation, education, welfare, child care,
62 recreation, consumer protection and other essential civil
63 needs;

64 (f) Use or distribute all or any of this property
65 among the inhabitants of the state in any area adversely

66 affected by a natural or man-made disaster and to account to
67 the state treasurer for any funds received thereof;

68 (g) Waive or suspend the operation of any statutory
69 requirement or administrative rule regarding the licensing,
70 certification or issuance of permits evidencing
71 professional, mechanical or other skills;

72 (h) Waive or suspend the operation of any statutory
73 requirement or administrative rule prescribing procedures
74 for conducting state business, where strict compliance with
75 such requirements and rules would prevent, hinder, or delay
76 necessary action by the department of health and senior
77 services to respond to a declared emergency or increased
78 health threat to the population;

79 (i) In accordance with rules or regulations, provide
80 that all law enforcement authorities and other emergency
81 response workers and agencies of other states who may be
82 within this state at the request of the governor or pursuant
83 to state or local mutual-aid agreements or compacts shall
84 have the same authority and possess the same powers, duties,
85 rights, privileges and immunities as are possessed by like
86 law enforcement authorities and emergency response workers
87 and agencies of this state;

88 (j) Perform and exercise such other functions, powers
89 and duties as may be necessary to promote and secure the
90 safety and protection of the civilian population;

91 (k) Authorize the director of finance and the director
92 of credit unions to waive or suspend the operation of any
93 statutory requirement or administrative rule applicable to
94 the division of finance, banking, financial services, or the
95 division of credit unions and take action and give direction
96 to banks, credit unions, and financial institutions,
97 including coordinating actions with emergency responders,

98 federal agencies, and state banking and credit union
99 associations as may be reasonable and necessary to preserve
100 the safety and soundness of banks, credit unions, and
101 financial institutions; and facilitate disaster response and
102 recovery efforts to serve essential civil needs and protect
103 the public interest.

104 2. When any property is seized, taken or requisitioned
105 under this section, the circuit court of the county in which
106 the property was taken may, on the application of the owner
107 thereof or on the application of the governor in cases where
108 numerous claims may be filed, appoint three disinterested
109 commissioners in the manner provided by section 523.040 to
110 assess the damages which the owners may have sustained by
111 reason of the appropriation thereof. Upon the application
112 the amount due because of the seizure of property shall be
113 determined in the manner provided in chapter 523 for the
114 determination of damages in case of the exercise of the
115 power of eminent domain.

537.295. 1. No agricultural operation or any of its
2 appurtenances shall be deemed to be a nuisance, private or
3 public, by any changed conditions in the locality thereof
4 [after the facility has been in operation for more than one
5 year, when the facility was not a nuisance at the time the
6 operation began. An agricultural operation protected
7 pursuant to the provisions of this section may reasonably
8 expand its operation in terms of acres or animal units
9 without losing its protected status so long as all county,
10 state, and federal environmental codes, laws, or regulations
11 are met by the agricultural operation. Reasonable expansion
12 shall not be deemed a public or private nuisance, provided
13 the expansion does not create a substantially adverse effect
14 upon the environment or creates a hazard to public health

15 and safety, or creates a measurably significant difference
16 in environmental pressures upon existing and surrounding
17 neighbors because of increased pollution. Reasonable
18 expansion shall not include complete relocation of a farming
19 operation by the owner within or without the present
20 boundaries of the farming operation; however, reasonable
21 expansion of like kind that presently exists, may occur. If
22 a poultry or livestock operation is to maintain its
23 protected status following a reasonable expansion, the
24 operation must ensure that its waste handling capabilities
25 and facilities meet or exceed minimum recommendations of the
26 University of Missouri extension service for storage,
27 processing, or removal of animal waste], **except for those**
28 **agricultural operations or any of its appurtenances used for**
29 **production of swine or swine products located within**
30 **counties of the first classification, including those**
31 **counties of the first classification with a charter form of**
32 **government, that unreasonably expand in violation of zoning**
33 **laws or ordinances.** The protected status of an agricultural
34 operation, once acquired, shall be assignable, alienable,
35 and inheritable. The protected status of an agricultural
36 operation, once acquired, shall not be waived by the
37 temporary cessation of farming or by diminishing the size of
38 the operation. The provisions of this section shall not
39 apply whenever a nuisance results from the negligent or
40 improper operation of any such agricultural operation or its
41 appurtenances.

42 2. As used in this section the term "agricultural
43 operation and its appurtenances" includes, but is not
44 limited to, any facility used in the production or
45 processing for commercial purposes of crops, livestock,

46 swine, poultry, livestock products, swine products or
47 poultry products.

48 3. The provisions of this section shall not affect or
49 defeat the right of any person, firm or corporation to
50 recover damages for any injuries sustained by it as a result
51 of the pollution or other change in the quantity or quality
52 of water used by that person, firm or corporation for
53 private or commercial purposes, or as a result of any
54 overflow of land owned by or in the possession of any such
55 person, firm or corporation.

56 4. The provisions of this section shall not apply to
57 any nuisance resulting from an agricultural operation
58 located within the limits of any city, town or village on
59 August 13, 1982.

60 5. In any nuisance action brought in which an
61 agricultural operation is alleged to be a nuisance, and
62 which is found to be frivolous by the court, the defendant
63 shall recover the aggregate amount of costs and expenses
64 determined by the court to have been reasonably incurred in
65 his behalf in connection with the defense of such action,
66 together with a reasonable amount for attorneys fees.

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