

**HOUSE OF REPRESENTATIVES
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Agriculture & Livestock
For HB 2308

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Hearing Date: March 29, 2023 8:00 AM

Katy Fendrich-Turner
Self as a homeowner
Austin, TX

H.B. No. 2308 is unnecessary legislation. If you want to say that the odor from living next to a poultry farm is adversely affecting your desire to use your back yard with your children and family pets because the smell is so bad, you are currently unable to win that case. Or that runoff from a feedlot is ruining the way your yard looks, you would not win that case. This legislation will not change that.

Judith McGeary
Farm and Ranch Freedom Alliance
Cameron, TX

The Farm and Ranch Freedom Alliance is concerned about the unintended impacts of HB 2308. While it is true that farmers face increasing pressures from neighbors who have moved from urban centers, it is important to recognize the limiting nuisance lawsuits means limiting private property owners' rights -- including neighboring farmers.

The current right to farm law is already very protective of agricultural operations. The key case involved a dairy whose manure lagoons overflowed onto the neighbor's property during heavy rains. The court found that the dairy was protected under the existing Texas statute, and the neighboring landowner was left with no recourse for the ongoing manure contamination of his property. And he was required to pay the dairy's attorneys' fees and litigation expenses.

It's unclear why yet more restrictions on nuisance suits are necessary.

As discussed in the hearing on HB 1750, the burden of proof is critical. The normal burden of proof in a civil lawsuit is "preponderance of the evidence." "Clear and convincing" evidence is generally reserved for claims that have special elements that need to be established, such as fraud or withdrawing life support from someone.

Particularly given that the neighboring property owner faces liability for the agricultural operations' attorneys' fees and expenses should they lose, this stringent burden of proof is unnecessary and punitive.

Peg Peterson

Self

Fischer, TX

Hi! I am a retired leg. council drafter who is concerned about the broad language of this bill. While no sane person would dispute the need for food security, I am not sure that is what is accomplished here. For example, the spraying of toxic chemicals on crops and farmlands in the name of pest control or fertilization would be considered an "agricultural operation." Under this bill, a nuisance action "or other action" to restrain the toxic spraying may not be brought if the toxic spraying has been legally conducted for a year or more. Many absolutely deplorable operations have actually continued for years even though they should never have been permitted at all. I am not familiar with the issue that this bill intends to address and I don't want to jeopardize a solution for whatever that issue may be, but perhaps it is a good idea for this bill to be more narrowly tailored for the benefit of the public and the environment.

Evelyn Talmadge

Self

Austin, TX

I am someone who is very concerned about the language here. We all want food security. The safety of it is of utmost importance but I don't believe the meaning of the bills language is very clear or to that point.

Would spraying of toxic chemicals on crops and farmlands in the name of fertilization or pest control be considered an "agricultural operation?"

With the wording of this bill, a nuisance action "or other action" to restrain the toxic spraying may not be brought if the toxic spraying has been legally conducted for a year or more. Many dangerous operations have actually taken place and have continued for years even though they should not have been permitted in the first place.

I think that maybe a rewording may be of help and benefit the environment and animal and human safety.

Michael Denham, Mr

Self ... Small Farmer

Bryan, TX

Please quit making it harder for us to grow food for Texans.