



**House  
Legislative  
Analysis  
Section**

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**FARM ODORS NOT AIR POLLUTION**

House Bill 5143 as passed by the House  
Second Analysis (12-1-87) **RECEIVED**

Sponsor: Rep. Thomas L. Hickner **26 0 8 1988**  
Committee: Agriculture and Forestry

Mich. State Law Library

**THE APPARENT PROBLEM:**

Under the 1981 Michigan Right to Farm Act, a farm or farm operation cannot be declared a public or private nuisance if either (a) it conforms to generally accepted agricultural and management practices as determined by the director of the Department of Agriculture or (b) it existed before any nearby (within one mile) development and would not have been a nuisance before the development occurred. Although the act was intended to protect farmers from nuisance suits by new residents in rural areas experiencing suburban development, challenges have been made to the act and interpretations of the Air Pollution Control act have resulted in actions against a farmer by the Air Pollution Control Commission.

**THE CONTENT OF THE BILL:**

The Air Pollution Control Act presently holds that "air pollution shall not be construed to mean those usual and ordinary animal odors associated with agricultural pursuits and located in a zoned agricultural area if the numbers of animals and methods of operation are in keeping with normal and traditional animal husbandry practices for the area."

The bill would amend the act to delete reference to animals and traditional animal husbandry practices and would instead specify that "usual and ordinary odors" associated with "generally accepted agricultural and management practices" would not constitute air pollution.

"Generally accepted agricultural and management practices" would be defined by the Commission of Agriculture, which would solicit and take into consideration written recommendations from the Cooperative Extension Service at Michigan State University and the Agricultural Experiment Station (in cooperation with the federal Agriculture Soil and Conservation Service and Agricultural Stabilization and Conservation Service, the Michigan Department of Natural Resources, and the Michigan Department of Agriculture).

The bill is tie-barred to Senate Bill 534, which would amend the Right to Farm Act to require the Commission of Agriculture to define "generally accepted agricultural and management practices." House Bill 5143 could not take effect until Senate Bill 534 were enacted into law and the commission had defined these practices.

MCL 336.12

**FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill has no fiscal implications. (11-18-87)

**ARGUMENTS:**

**For:**

Although farming interests had assumed that agriculture was exempt from the Air Pollution Control Act, the Air Pollution Control Commission ruled in the past year that a

farm of 1,000 hogs was neither normal or traditional for the area, was too large to be agriculture, and therefore would be regulated as industry. But agriculture odors are a normal part of farming operations and should be exempt from the act. As suburban sprawl into rural areas increases, the potential for conflict between farmers who are following generally accepted practices and new residents, unused to and unfamiliar with farming operations, increases. Farmers who follow generally accepted agricultural and management practices must be protected from nuisance suits and actions under the Air Pollution Control Act if agriculture is to remain a viable and vital part of the state's economy. The bill would recognize the rights of all rural citizens, reduce the number of disputes between farmers and new residents, and protect the rights of both parties.

**For:**

The definition of "generally accepted agricultural and management practices" would be made by the Agriculture Commission in close consultation with the expertise available in the agricultural and university community, which will assist farmers in developing management systems compatible with the environment.

**Against:**

A distinction should be made between family farms, in which the owners live on the farms they work and depend on for a living, and investor-owned corporate "mega-farms," in which the owners are absentee landlords and treat the farms as just another business investment. In particular, the huge "factory farms," that mass produce animals for slaughter, should be treated and regulated like the industries they are, and should not be exempted from air and water pollution standards established by the state.

**Against:**

The task of defining "generally accepted agricultural and management practices" should include those segments of the farm community interested and involved in "sustainable" or "regenerative" agriculture, as well as the "traditional" (at least since World War II) agribusiness and university agricultural experts. Otherwise, the definition of these practices likely will continue to reflect the heavily chemically-oriented and often ecologically unsound practices developed in the post-war years.

**Response:** Senate Bill 534, which is tie-barred to House Bill 5143, would require that the Agriculture Commission annually review, and if necessary revise, the definition of "generally accepted agricultural and management practices." If "regenerative" agricultural practices become "generally accepted," they presumably would be incorporated into the current definition.

H.B. 5143 (12-1-87)

***POSITIONS:***

The Department of Natural Resources supports the bill.  
(12-8-87)

The Michigan Farm Bureau strongly supports the bill.  
(12-7-87)

The Michigan Association of Conservation Districts supports  
the bill. (12-4-87)

Women for the Survival of Agriculture in Michigan supports  
the bill. (12-4-87)

The Michigan Cattlemen's Association supports the bill.  
(12-7-87)

S.A.F.E. (Save Our Farming Environment) strongly opposes  
the bill. (12-4-87)