

**Testimony on SB 168**  
**to**  
**The House Committee on Agriculture and Natural Resources**  
**By Chelsea Good**  
**Kansas Department of Agriculture**  
**March 11, 2013**

Good afternoon, Chairwoman Schwartz and members of the committee.

I am Chelsea Good, a staff attorney with the Kansas Department of Agriculture, and I am here to express KDA's support for Senate Bill 168. This bill will provide an important added layer of protection for farmers and ranchers from unwarranted nuisance lawsuits.

Kansas has a rich heritage rooted in agriculture. That tradition lives strong today as agriculture remains our state's largest economic driver. Today's farmers and ranchers raise more than ever before using fewer resources. In today's agriculture, in addition to investing in conservation practices and in improvements to animal herds, agricultural facilities and equipment, farmers and ranchers must also spend considerable money complying with many state and federal regulations. Unfortunately, farmers and ranchers are sometimes also forced to expend financial resources protecting their livelihood from an onslaught of legal attacks, including superfluous nuisance lawsuits.

The stated policy of Kansas in creating the Protection of Farmland and Agricultural Activities law in 1982 was to avoid premature removal of land from agricultural uses by protecting agricultural activities conducted on farmland from nuisance lawsuits.

Although not prohibiting nuisance actions, current law establishes that agricultural activities are presumed not to be a nuisance if conducted in a manner consistent with good agricultural practice and established prior to surrounding nonagricultural activities, unless the activity has a substantial adverse effect on public health and safety.

As individuals and groups opposed to modern agriculture across the nation have sought the legal system as a means to severely restrict and in some cases totally end production agriculture as we know it, some states, including our neighbors in Missouri, have strengthened agricultural nuisance protection laws, sometimes called right-to-farm laws. We've been asked to consider strengthening our laws as well, as a legal environment welcoming to agriculture is one factor individuals and companies may consider when deciding where to do business – and we want Kansas to remain a leader in agriculture and agribusiness.

SB 168 will provide increased protection of farmland and agricultural activities from nuisance claims. The bill clarifies that agricultural operations can reasonably expand, decrease, change operation

types, or temporarily cease operation and still receive right-to-farm protections so long as they comply with applicable local, state, and federal laws. It also makes clear that agricultural activities include activities related to the handling, storage, and transportation of wholesale agricultural commodities. SB 168 strengthens Kansas right-to-farm law by clarifying that this protected status is assignable and inheritable.

This legislation will put in statute a limitation to the damages agricultural operations may face in nuisance claims. The bill also protects farmers and ranchers from being subject to a string of lawsuits from the same individual or their successors in interest. It also makes clear agriculture nuisances that cannot be abated with good faith efforts shall be declared permanent and that substantial compliance with a court order shall constitute a good faith effort. This is important to set limits to damages and time a lawsuit could be brought.

These actions to strengthen Kansas right-to-farm law will take important steps to protect Kansas farmers and ranchers and allow them to focus on doing what they do best – growing healthy, wholesome food to feed Kansans and people everywhere. Thank you for the opportunity to speak with you today. I will stand for questions at the appropriate time.