STATE GOVERNMENT
LEADERSHIP FOUNDATION

RIGHT TO FARM IN AMERICA

OVERVIEW & CASE STUDIES

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ABSTRACT

This study examines right-to-farm statutes in different states. Instituted at the state level, right to farm has led to a patchwork of protections for farmers that varies from state to state. This overview examines statutes in three American states: Louisiana, North Carolina, and Florida, and outlines the history, the law, amendments, and legal challenges to the law. Major findings show that some states have written and instituted the statute to accurately protect farmers, while other states have faced legal challenges that have diminished the strength of the protections the statutes provide. Implications of a weakened law include a higher cost of business, exposure to unnecessary risk, and potential further loss of farms.

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INTRODUCTION

The farmer is the only man in our economy who buys everything at retail, sells everything at wholesale, and pays the freight both ways.
— President John F. Kennedy

Right-to-farm was initially introduced by New Jersey in 1979 to offset of suburban encroachment into rural and more traditionally agricultural areas. In the subsequent years, other states began to adopt similar statutes to protect farmers living and working in rural areas of their state. A majority of these laws were passed in the early 1980s, and by the mid-1990s all 50 states had some form of this protection.[1] As of 2015, right-to-farm laws exist in every state in America.

The catapult for the right-to-farm initiative was due to the popular urban sprawl of the 1970s. Its purpose was to protect pre-existing farms and other agricultural operations from the concern of nuisance-based lawsuits brought about by newly migrated urban dwellers. It was a defense for farmers to continue production without fretting how the innate noise, odor, visual clutter, technology, and farm structures would hinder their operations if a resident filed a complaint.

In the 1980s, the law's justification shifted slightly as an additional concern of available farmland arose. To avoid hindering farming activity, many right-to-farm laws were passed as a way to preserve and enhance farm productivity. It was a technique to allow farms to remain functional without the threat of outside interference.

One of the larger points of concern was if farms had no avenue to defend themselves against lengthy and costly lawsuits, they would inevitably be put out of business. The previously used farmland could possibly be converted into suburban developments, thus accelerating the urban sprawl phenomena and pushing agricultural development and production out of the state.

While every state does have a right-to-farm law, or a derivative of such law, they vary in detail and context. Some states have loose and opaque statues while others are very clear and specific. Some right-to-farm laws have been amended to strengthen protections and others have been weakened by federal and state courts.

> THROUGH MISINTERPRETATION AND GAPS IN THE SCOPE OF THE LAW, RIGHT-TO-FARM IS SELDOM AS SECURE AS IT SHOULD BE IN THE UNITED STATES.

The larger divergence lies in the language different states use within their right-to-farm laws. Through misinterpretation and gaps in the scope of the law, Right-to-farm is seldom as secure as it should be in the United States.

Editor's Note: The agriculture industry in America is a large contributor to employment, wages, and taxes in the country. According to Feeding the Economy, "The food and agriculture industries are dynamic contributors to the U.S. economy, accounting for about $2,964.05 billion in output or about 13.6% of total national output. They employ approximately 23.08 million Americans who earned wages and benefits of about $782.54 billion. Economic activity in the food and agriculture sectors generates as many as 23.77 million jobs and $4,674.99 billion economic output in supplier industries and sectors supported through induced spending. Members of the industries and their employees, and these supplier and induced industries, paid $885.30 billion in federal, state and local taxes."

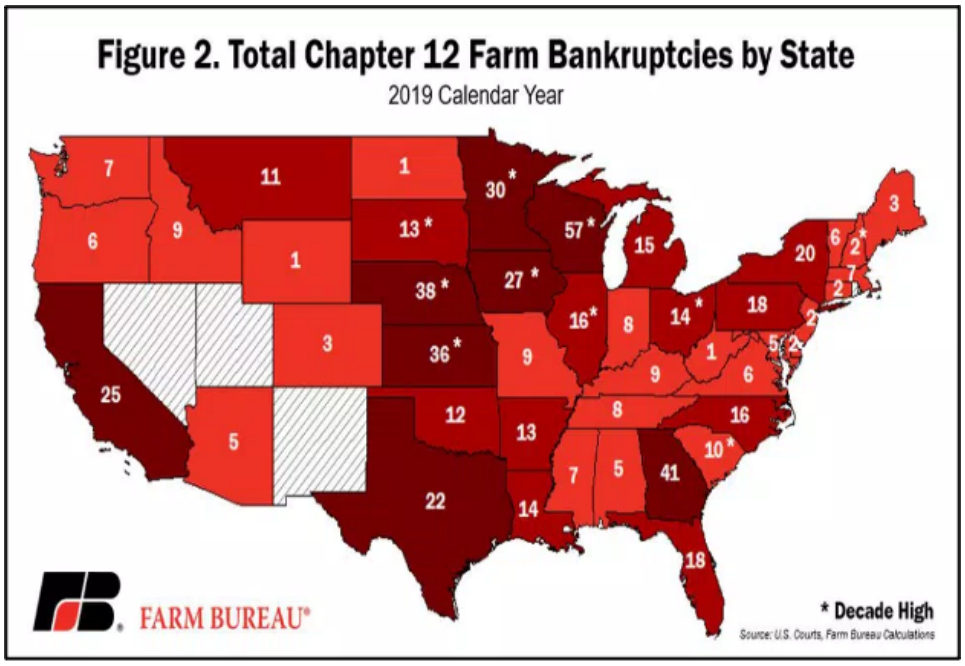
PROBLEM STATEMENT

In 1964, the first episode of Green Acres aired on national television. The show depicted an affluent couple packing up and leaving the busy and fast life of urban New York City to move to a quiet and quaint town of Hooterville, a small rural town of farmers. When they arrived, they didn't build a series of urban housing developments – instead, they subscribed to one of the great American dreams and built a farm.

Farming in the United States today is much different than during the time of Green Acres. Now, it is threatened more than ever. According to a study conducted by the USDA, the number of U.S. farms is rapidly declining, and has been since the 1970s.[2]

Once at 6.8 million farms in 1935, by 2007 that number had dropped to 2.20 million. By 2019, the number of farms dropped to 2.02 million.[3] In that same year, another study showed that U.S. farm bankruptcies hit an 8-year high; increasing by 20% from the previous year.[4]

Specifically, Wisconsin was hit the hardest by this trend. Victim to a 49% decrease in the number of dairy farms over the past decade, between 2016 and 2018 Wisconsin lost over 1,200 dairy farms.[5]



A contributing factor in the decline of farms in the country is weakened right-to-farm laws. While every state has them, it does not mean the law addresses the changing conditions in the state. Some states have maintained their laws by keeping them relevant to growing changes and further enforcing them, and others have not. Other states have simply sustained the laws in the form they were written.

Some of these laws are no match for incessant litigation. In 2021, these statutes face many more aggressors than they did when the law was written. Farmers and producers are vulnerable to both private and public nuisance-based lawsuits and could be outrun by larger-scale farms with plenty of financial backing. In some cases, they are even are sued by corporations.[6]

While the majority of farms in the United States are small farms (roughly 90%), they do not account for the majority of the production.[7] The majority of production comes from large-scale farms (3%) which produce 44% of agricultural output in the U.S.[8]

These small farms are consistently put at risk when they are subject to nuisance-based lawsuits that circumvent the protections of right-to-farm statutes. Small scale farms, making less than $350,000 in gross cash farm income,[9] cannot afford the litigation that comes with the filing of a lawsuit. Even if they maintained a production contract with a larger corporation, they inevitably will be set on the course for bankruptcy.

This paper seeks to analyze the background of right-to-farm laws in three states: Louisiana, North Carolina, and Florida. Each of these states sit in a different place with right-to-farm. Louisiana has constructed and maintained its law relatively well. North Carolina farmers have suffered from nuisance lawsuits that utilized loopholes in the law, resulting in a minimum of 26 lawsuits and $550 million awarded for damages in just one industry.[10] Finally, Florida is in the middle of amending and updating its law to strengthen protections for farmers. While this paper addresses three states, every state in the country faces this challenge. When weak, faltering, or outdated right-to-farm laws are not amended, they do not function as intended and do not protect farmers.

“WHEN WEAK, FALTERING, OR OUTDATED RIGHT-TO-FARM LAWS ARE NOT AMENDED, THEY DO NOT FUNCTION AS INTENDED AND DO NOT PROTECT FARMERS.”

CASE STUDY: LOUISIANA

With Louisiana located in a humid subtropical climate, having access to the ocean and owning diverse geography ranging from marsh to forests, the state is ideal for agribusiness in the United States. It is home to 30,000 farms and over 8 million acres of farmland, with the average size of farms sitting at approximately 370 acres.[11] The state also maintains 14 million acres of forestland steered by 148,000 forest landowners.[12] Yet, the state is not just privy to land-based agribusiness. Forty-one percent of the nation's wetlands are housed in Louisiana. At roughly 7,721 miles long, it is the third-largest coastline in the country.[13]

Due to the unparalleled access to the coast, Louisiana accounts for 25% of all seafood produced in the United States, making them the number one producer in crawfish, shrimp, alligator, menhaden, and oysters.[14]

Besides the thriving seafood industry, Louisiana's land-based agricultural income is almost evenly divided by crops and livestock. Roughly 60% is generated by crops and 40% by livestock and livestock-based products. The top six products produced by the state include sugar cane, rice, cattle, calves, soybean, and cotton. Sugar cane being the leading crop.[15]

Cattle and calves make up for 9% of the revenue garnered by the state. However, dairy products, chicken eggs, hogs, and produce also heavily contribute to the state's revenue.

Overall, the agriculture industry is a vital asset to the state and contributes over $6.4 billion to its income. Furthermore, with gross farm value-added, the total economic impact is nearly $12 billion.[16]

THE LAW

In 1983, following the protective trend of most states on the basis of rapid urban sprawl, Louisiana enacted its right-to-farm law.[17]. The law reflected similar laws in other states that aimed to protect pre-existing farms from nuisance-based lawsuits from newly arrived residents. Initially, the law was made to specifically protect, what that state defined as, customary and standard agricultural practices for standard farming operation.[18]

Louisiana is unique in that, since then, they have steadily increased protections for farmers through subsequent amendments to the law. Yet, they have done so without reacting off the heels of frivolous nuisance-based lawsuits, as some states are known to do.

AMENDING THE LAW

In 1995, given the importance of the forestry industry, the law was amended to include the right to forest, providing a vital and necessary safeguard to the industry. In that same year, in order to protect farms from local interference, the state legislature further stipulated that the state's right-to-farm law prevailed over any local ordinance or regulation. However, this stipulation would only supersede if the operation was not negligent and was using generally accepted farming practices.[19]

The amendment stipulates that the local government must provide extensive written evidence for the justification of any action that would diminish the private agricultural operation. It also permits the owner of said operation to sue the governmental entity if the aforementioned actions damage or diminish the value of the property.[20]

If the owner prevailed in the lawsuit against the government entity, the government must pay all legal fees and duties accrued by the owner. They would also be liable for ancillary damages brought about from the non-sustained local ordinance or regulation. Such damages would have to be related to the property and the value the property would have held.

Later, another amendment would also be included in the right-to-farm law. The new statute set forth that, in the case that a private lawsuit against a farming operation was dismissed, the private plaintiff would also be required to pay the defendant's attorney fees, legal fees, and any other duties accrued. Such statute, with farmers in mind, significantly reduced the incentive to file nuisance-based lawsuits. This statute would later be adopted by several other states to be included in their right-to-farm laws.[21]

In addition to the changes enacted in 1995, 2008 brought a number of sweeping amendments which further strengthened the law. One such amendment was the expansion of the definition of protected agriculture operations to subsequently include any agricultural installation or land used for the production of crops, forest-based products, livestock, aquaculture, poultry, or produce. It was also expanded to incorporate the use of necessary farm machinery or equipment, chemicals, and other structures.

Moreover, in that same breath, the law adjusted what qualified as a protective practice. Alongside what the state believed to be traditional practices, they also included best management practices (BMPs) giving more control to farmers on how they might be able to best manage their farms' efficiency and effectiveness.

One of the more important modifications to the law took place that same year and followed in the footsteps of the 1995 local ordinance amendment; not only did the law protect farmers from private nuisance suits, but it now protected farmers from public nuisance suits brought by the government on behalf of the public.[22]

Louisiana has been very proactive in adding exemptions for farmers in certain industries to maintain the integrity of the farming practice. For example, in 2015 Louisiana issued a statewide ban on private burning due to overly dry conditions; however, farmers were exempt from this order because burning is considered a generally necessary agricultural practice.[23]

OUTCOME

Since Louisiana's right-to-farm law was passed in 1983, the number of farms operated has decreased by 23%, and the number of acres farmed by 20%.[24] However, despite these losses, Louisiana has been at the vanguard of increasing right-to-farm protections in the state. If not for the protections instituted by these laws, these statistics could be much more dismal.

IF NOT FOR THE PROTECTIONS INSTITUTED BY THESE LAWS, THESE STATISTICS COULD BE MUCH MORE DISMAL.

The state's right-to-farm practices have been one of the larger success stories in the country. Without the incessant belaboring of copious lawsuits, the state has looked for avenues to further increase protections for the sake of farmers in their state.

Louisiana has upheld practices within their right-to-farm laws that other states have later adopted. They have set the example of what it means to have, hold, and maintain right-to-farm in the United States.

Even so, Louisiana has not stopped searching for avenues to maintain the progress; there is continued legislation being considered at the state level for further reinforcement.[25]

CASE STUDY: NORTH CAROLINA

Since its establishment as a royal colony in 1729, North Carolina has consistently leaned toward subsistence agriculture, with a majority of the state in a humid subtropical climate zone. Initially almost exclusively devoted to the production of tobacco, the state has since created a large range of diversified crops. North Carolina produces more than 150 commodities, and is a lead producer in sweet potatoes, tobacco, Christmas trees, hogs, turkeys, trout, strawberries, and pickling cucumbers.

Other commodities that also contribute to the state's unique success include broiler chickens, eggs, blueberries, peaches, peanuts, apples, catfish, watermelons, tomatoes, corn, soybeans, cotton, cattle, grapes, and squash.[26]

Agriculture and agribusiness are the leading industries in the state with an economic impact of over $92.7 billion (as of 2020). It has continued to grow; 2020 saw an increase of over $1 billion in economic growth from the prior year. As the state's top industry, it accounts for a sixth of the state's income and 17.5% of the state's workforce.[27] Its farm cash receipts rank it 9th in the country.[28]

Consequently, the state is home to 52,000 farms covering the span of 8.5 million acres of farmland.[29]. Of these farms, 86.7% are owned by individuals and families, and 93.2% of the farms are less than 500 acres. Roughly 1,600 of those family farms are dubbed "century farms," term used to describe farms that have been in the ownership of a single-family for over 100 years.[30]

THE LAW

Given the industry's importance to the state and as a result of the urban sprawl in the late 1970s, the state legislature passed North Carolina's right-to-farm law in 1979.[31] It was passed with the understanding that, with an increase of urban migrants to more rural and traditionally agricultural areas, farms might be viewed as a nuisance and might be subject to lawsuits by new residents. In short, its primary purpose was to defend the industry from nuisance-based lawsuits as two different lifestyles began to collide.

The language reads: "No agricultural or forestry operation or any of its appurtenances shall be or become a nuisance, private or public, by any changed conditions in or about the locality outside of the operation after the operation has been in operation for more than one year, when such operation was not a nuisance at the time the operation began."[32]

The way the law had been structured to protect farmers in North Carolina exempts farms that have been established, prior to new residents moving to the area, from being categorized as a nuisance and thus guarded them from being brought to court for their operations. However, the scope of these protections suffers from several gaps that have left sects of the industry vulnerable to legal action by surrounding residents.

FAULTS IN THE LAW

In the early 1990s, as the tobacco industry began to shrink, it made way for the hog industry to begin to grow.[33] It was a shift necessary to fill the void left by the previously prosperous cash crop. With over 9 million hogs and over 2,300 farm operations,[34] the industry makes up 20% of the state's farm income, produces over 46,000 jobs, and adds roughly $3 billion to the economy.[35]

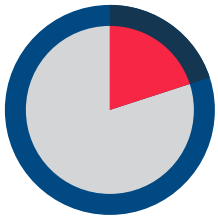
However, problems began to arise in 2014 when 26 lawsuits were filed, representing over 541 plaintiffs, claiming hog farms were creating a nuisance. Multiple complaints claimed there was odor and noise pollution within the community. This type of complaint was the basis for a specific case brought against Murphy-Brown, a subsidiary of the larger Smithfield Foods corporation-- the largest hog producer in the country.[36]

In 2017, the defense moved for a summary judgment via protections in right-to-farm. This move was quickly denied by the federal district court citing the language used in the statute. The court decided that since the farm had been established after the plaintiff had already been living there the protections would not apply to them. Simply, the plaintiff's residence had pre-dated the farm.[37]

With the permission to move to trial, deliberations against the farms did not last long. The three juries, who had not been given permission to see the farms and did not live near the farms, ruled in the plaintiffs' favor three times. Amongst the three verdicts, the punitive damages ranged from $50 million to $473 million. Yet, given the cap on punitive damages in North Carolina, the amount was substantially reduced.[38] Since then, two more juries have sided with plaintiffs in subsequent nuisance suits.

9
MILLION HOGS

2,300
FARM OPERATIONS



HOGS ARE 20% OF NC'S FARM INCOME

46,000
JOBS

$3
BILLION ADDED TO THE ECONOMY

CHALLENGES

These lawsuits are only the vanguard of what is to be a challenge to farmers and producers in many industries. The right-to-farm law and the courts let down the farmers in the aforementioned lawsuits for several reasons – the first being the specific industry that was targeted. Unlike other agricultural industries in the state, such as produce, livestock farmers face the inevitable complaint of noise and odor; hog farmers are far from the exception.

The second issue present in this circumstance was the lack of a defined statute of limitations for a complaint to be brought to the court. As it stood, a resident could wait decades after the farm was established and operating before they would claim nuisance. In one instance, a nuisance suit was filed against a hog farm that had already existed for over 15 years.[39]

The third issue, and perhaps the largest, focuses on those farms which lack corporate support. As previously mentioned, 86.7% of farms are individually or family-owned in North Carolina; a lawsuit against such a farm could see the farm turn to bankruptcy given legal fees and duties. This was a common outcome in the 1970s before the right-to-farm protections.

With corporate backing, some farms are slightly spared from punitive damages that might be awarded. However, this is not always the case. The lawsuits in 2014 drove several farmers out of business and their farms were forced to close either due to the legal processes or after a verdict had been decided. Individual and family farms are the ones who lose in the end, not the larger corporations.[40]

More strikingly, these cases offer a puzzling reality. The farms that were sued and subsequently lost did not break any laws or regulations in place; they were duly punished on the premise of a jury finding their industry to be a nuisance to the community present.

The law, as it stood, did not protect these farms in these suits and almost made them more vulnerable.

OUTCOME

The results of these suits made way for legislative reform to the right-to-farm law to address the gap in scope and the targeted industry.

In 2017 and 2018, overriding vetoes by Governor Cooper, the North Carolina General Assembly passed House Bill 467 and the North Carolina Farm Act, respectively. Both bills strengthened protections for farmers through a number of additional statutes. Correcting previously made grievances, the new law requires that a lawsuit be filed within one year of

the establishment of said operation and that the lawsuit hold a “fundamental change” within the complaint. Fundamental change subsequently does not include a change in ownership, technology, product, or size.[41]

House Bill 467 limits the amount of money plaintiffs can collect in nuisance lawsuits against agricultural operations;[42] the law also stipulates that punitive damages are only rewarded if the operator of a farm is convicted of a criminal offense, has broken state farm laws, or has received a regulatory violation of said state farm laws.

This new law makes it far more difficult to bring a nuisance claim to the courts against farms and further strengthens the right-to-farm in North Carolina.

CASE STUDY: FLORIDA

Fairly dubbed the 'Sunshine State', Florida is placed in the ideal humid subtropical environment for agriculture; a large facet of the state's economic success. Beating tourism and construction, agriculture ranks first in the top three industries in the state.[43]

Contributing over $160 billion to the economy, it also provides over 2 million jobs.

Producing more than 300 diverse commodities, it is home to over 47,000 farms, with a majority of these farms (88%) being smaller-scale farms with sales lower than $100,000. Nationwide, it ranks first in the production of cucumbers, grapefruit, squash, sugarcane, fresh market tomatoes, radishes, guavas, mangoes, passion fruit, watermelon, and kumquats.[44]. In this same breath, they rank first for the production of non-food commodities including plants and fish. And of course, citrus. Florida provides 57% of the nation's total citrus production, coming second only to California.[45]

With the ideal climate at hand, the landscape encompasses a diverse range of topography. The state holds over 9.7 million acres of rangeland and woodland, used for the production of beef and dairy cattle. It also accounts for roughly 17 million acres of forest, leading to the production of forest-based products, including timber, primary and secondary wood, as well as paper-based products.[46]

In the course of production, the forestry industry further employs 124,000 residents and contributes another $25 billion to the state purse.[47] In contrast to most states in the region, Florida is also privy to the vast everglades in its southern region. Spanning 700,000 acres, these everglades are carefully and strategically used for the development of the sugar industry in the state,[48] leading to the production of over 15.8 million tons of sugar – helping supply 51% of the nation's sugar supply.[49]

"BEATING TOURISM AND CONSTRUCTION, AGRICULTURE RANKS FIRST IN THE TOP THREE INDUSTRIES IN THE STATE."

> FLORIDA HAS BEEN PROACTIVE IN FURTHER FORTIFYING THE LAW TO ADDRESS CHANGING CONDITIONS, CIRCUMSTANCES, AND ENVIRONMENTS.

THE LAW

Like most states at the time, combating the threat presented to agricultural operations due to urban sprawl, Florida enacted their right to farm law in 1979.[50] Being a part of the first ten states to enact protections for their farmers, the basis of the law paralleled that of other states that drew up safeguards in the late 1970s and early 1980s. It stipulated that farms, which pre-existed the move-in of newer and urban residents, could not be brought to court under the premise of a nuisance-based lawsuit.[51]

However, the law did not grant complete or unwavering immunity to farmers. Certain factors could warrant a lawsuit; if the farming operations caused damage to or degraded the surrounding lands, if the farms used atypical and unaccepted farming practices, or if they caused a threat to human health or general welfare.[52]

The law was not only intended to protect these farms, but also to avoid the potential urban sprawl that could deter farming or later prohibit farming practices; it further sought to ensure farmland was also preserved.

AMENDING THE LAW

Since its enrollment, there have been few lawsuits filed against farmers; however, Florida has been proactive in further fortifying the law to address changing conditions, circumstances, and environments.[53]

Later amendments to the law made provisions that would also protect farms from the filing of public nuisance lawsuits, along with private nuisance lawsuits. Another amendment required a lawsuit to be filed within a year of the establishment of a new farming operation.[54]

In 2000, the law further limited local governments by restricting the imposition of regulations on farming operations, especially if those ordinances and regulations were stricter than those of the Florida Department of Environmental Protection and the Department of Agriculture and Consumer Services.[55]

As further evidence of Florida's support, there have been several instances where the courts have upheld the state's right-to-farm law. In Wilson v. Palm Beach Country[56] the court of appeals found the aforementioned provision, which protected farms from local ordinances and restrictions, fair and proper as well as protecting said farms given the date of amendments effectiveness.[57]

CHALLENGES

In recent years, the state has evaluated the need to secure the law in Florida. A few situations have caused concern. The first addresses the initial problem the law sought to rectify-- urban encroachment on traditionally agricultural land. According to a recent study, Florida can expect an increased population of over 303,000 residents a year, forecasting a population of 23.1 million people by April 2025.[58]

With the flow of new residents to the state comes increased urban development, likely pushing into lands where farms operate.

Another point of concern lies among many states, like Florida, witnessing the copious amount of harmful litigious activity that has occurred in states like North Carolina or Washington. In these states farmers have been subject to egregious legal challenges to their farming operations; often due to weak, outdated, or faltering right to farm laws.[59]

And more recently, addressing the development of a class-action lawsuit filed in the federal district court against nine sugar producers in Florida.[60]

303,000

INCREASE OF NEW RESIDENTS PER YEAR

23.1

MILLION PEOPLE FORECASTED BY APRIL 2025

The suit claims multiple farm operations are negligent, liable for damages, and have trespassed via hazardous waste intrusion on private property. The plaintiffs suggest that the burnings these farmers perform, as part of their operations, have caused health problems in surrounding areas.[61]

The burnings the plaintiffs refer to are routine, controlled, and heavily regulated burns that make the harvesting process easier.[62] The practice has been determined to be safe and environmentally sound. It is a traditional exercise for the industry and, since 2004, has happened to over 100,000 cane fields as part of the farming operation.[63] The Florida Forest Service assists in the regulations of said burns.[64] The sugar producers are granted permits for the burns because the wind flow does not direct the smoke toward communities or residential areas; if so, the permits would be revoked.[65]

In early 2020, a Florida judge partially dismissed the suit, citing a lack of sufficient evidence brought against the farmers. Later, the judge said the plaintiffs failed to connect and prove the smoke did any actual harm. Since the initial dismissal, the plaintiffs have filed over three more amended complaints against the farmers, each time having no better evidence than the time before. At one point the plaintiffs had to revise their data that overstated the negative effects of the smoke by 60 times.[66]

OUTCOME

While this particular verdict is still to pending, Florida has not let this deter them from fighting to strengthen protections for farmers. Currently, the Florida Senate is considering Senate Bill 88 which would modernize the Florida Right to Farm Act.[67]

The legislation would require the plaintiff to live within half of a mile of the farm and would prevent tort lawsuits from being filed against farms that are following state and federal environmental laws and utilizing broadly accepted farming practices. The legislation also includes agritourism in the definition of farm activities and requires the plaintiff to present clear evidence of non-compliant farm activity.[68]

Florida is working towards being a success story for the right-to-farm in the United States. Since it was first enacted, the state has analyzed cautiously how it could be improved or made more efficient and has done so. Florida has made significant progress in amending its law to protect farmers and different agricultural industries.

This reflects how seriously the state takes agriculture and how meaningful it is to the state's success.

The way Florida has maintained, developed, and nurtured right-to-farm should act as a model of legal evolution for other states in dealing with the same challenges.

CONCLUSION

The differences of right-to-farm statutes in individual states across the country could not be more clear than in the case studies examined here. With the industry in decline and an increasing number of potential legal adversaries, farmers need updated, effective legal protections from their states. States that suffer from weak, outdated, and faltering statutes only put their farmers at risk. The law functions as intended when it is maintained, updated, and addresses changing conditions and environments.

In Louisiana, the state has steadily modified the law. Since 1983, they have given farmers more protections and updated the law without subjecting farmers to onerous and frivolous lawsuits. They have singled out various sects of the farming and forestry industry that were vulnerable and amended the law to address those growing concerns. Understanding the importance of efficient farming and the rapid growth of technology, the state has also incorporated newer farming practices under protected farming measures. Louisiana proactively realized that farms could also be subject to public nuisance-based lawsuits on behalf of local governmental entities. To avoid such lawsuits, the law was further amended. Louisiana is unique in that it often analyzes what the gaps are in the scope of law and makes moves to address those gaps. Right-to-farm has been largely successful in the state and Louisiana's proactive mentality should be seen as a model for other states.

In North Carolina, the narrative could not be any more different. Only off the heels of frivolous aggressive lawsuits did the state then address faults in the law. When the law was written, the farming industry had been focused on a number of popular cash crops, including tobacco. As producers shifted to fill the gap left by decreased tobacco farming, the incoming hog industry was unintentionally left vulnerable under the outdated law.

This issue was further exacerbated when the law was brought before the courts and the language of the law, and subsequently its interpretation, was brought into question. It exposed how weak the law was and how limited the protections were. After the law was amended, it increased protections for farmers all across the board. The improved law took into account current and future threats, addressed growing concerns, closed many gaps in the scope of the law, and clarified it. More importantly, the right-to-farm conditions in North Carolina functioned as a warning sign for states that had also fallen behind.

Florida, since it enacted right-to-farm laws in 1979, has often amended the law to further fortify its protective intentions. The producers in the state have not completely avoided lawsuits, but overall the state has only encountered a handful of legal challenges to the law. Florida has often looked to other states' improvements to fortify their right-to-farm laws on the basis of further change.

> THE PROBLEM IS STRIKINGLY EVIDENT WHEN STATES FIGHT TO CATCH UP WITH THE CHANGING TIMES, INSTEAD OF PROACTIVELY UPDATING THE LAW TO ADDRESS CURRENT AND FUTURE CHALLENGES.

The state has been proactive in looking for gaps and holes in the law, as well as avenues for better modification. The law has been amended to provide provisions for certain industries that are developing in the state alongside other provisions that preserve the integrity of different farming industries that remain important to the states' success. Unlike North Carolina, the law is clear, and the language is not opaque. It benefits the farmers who rely on it for their livelihood. To maintain progress, Florida needs to continue to address changing conditions in the state and an update to the law is required. Florida ranks high on the lists of states who nurture their right-to-farms laws and is another model state in the country.

With the number of farms in the U.S. in decline, farmers and producers are increasingly more vulnerable to being victims of frivolous litigation. The problem is strikingly evident when states fight to catch up with the changing times, instead of proactively updating the law to address current and future challenges. States need to analyze growing threats to the law and gaps in scope. They have to constantly search for improvement to add protections for industries in their states. If not, states could see their farmlands and woodlands taken over and subsumed by urban developments, have industries run out of the state, and be hit with a large economic void that was once filled by farmers.

WORKS CITED

[1] Editor's Note.
[2] “Farming and Farm Income,” USDA ERS - Farming and Farm Income, Feb. 2021.
[3] Ibid.
[4] “U.S. Farm Bankruptcies Hit an 8-Year High in 2019,” Yahoo, Feb. 2020.
[5] Ibid.
[6] Mirabella, Lorraine, “Jury Awards $1.8 Million Damages to Farmer over Land Lease Dispute with Sinclair CEO,” Baltimore Sun, 23 Dec. 2018.
[7] Ibid.
[8] Ibid.
[9] Ibid.
[10] Hart, John, “Nuisance Lawsuits Now Threaten All Farmers,” Farm Progress, 10 Dec. 2018.
[11] “Economic Profile of Louisiana Agriculture and Farming Households,” LSU Ag Center, 21 Oct. 2015.
[12] “2018 Highlights of Louisiana Agriculture,” LSU Ag Center, 2018.
[13] Sanders, AuthorCara, et al., “Louisiana Agriculture,” Farm Flavor, 21 July 2020.
[14] Ibid.
[15] “Louisiana Economy,” Economy of Louisiana Including Louisiana Agriculture and Manufacturing, NetState.com accessed March 15, 2021.
[16] “Economic Profile of Louisiana Agriculture and Farming Households,” LSU Ag Center, 21 Oct. 2015.
[17] Louisiana Laws - Louisiana State Legislature, 1983.
[18] “Louisiana’s Right-to-Farm Summary,” One Rural, 2019.
[19] Ibid.
[20] Ibid.
[21] “Neighbors Suing Over Pig Fumes Spur 'Right-to-Farm' Push,” The Pew Charitable Trusts, 2019.
[22] “Louisiana's Right-to-Farm Summary,” One Rural, 2019.
[23] Baylen Linnekin, “Right-to-Farm Debate Heats Up,” Reason, 24 Oct. 2015.
[24] LSU Ag Center, “Economic Profile of Louisiana Agriculture and Farming Households” LSU Ag Center, 21 Oct. 2015.
[25] “Neighbors Suing Over Pig Fumes Spur 'Right-to-Farm' Push,” The Pew Charitable Trusts, 2019.
[26] Troxler, Steve, “North Carolina Department of Agriculture & Consumer Services,” NASDA, 2021.
[27] Southern Farm Network. “NC Commissioner Steve Troxler: New NC Ag Numbers Show Industry Continues to Grow” Southern Farm Network Today, 30 June 2020.
[28] NC Growers Association, 2020.
[29] Troxler, Steve, “North Carolina Department of Agriculture & Consumer Services,” NASDA, 2021.
[30] NC Growers Association, 2020.
[31] Goeringer, Paul, “Right-to-Farm Law Does Not Apply in a Recent North Carolina Hog Farm Dispute,” Medium, 20 May 2018.
[32] N.C. Gen. Stat. § 106–701(a), North Carolina, General Assembly, Nuisance Liability of Agricultural and Forestry Operations. 1979.
[33] Stolark, Jessie, “Stink, Swine, and Nuisance: The North Carolina Hog Industry and Its Waste Management Woe,” Environmental and Energy Study Institute, 10 Aug. 2018.
[34] Blythe, Anne, “A Jury Awarded Hog Farm Neighbors $50 Million. A Judge Reduced the Award Dramatically,” The News Observer, 9 May 2018.
[35] Hart, John, “Nuisance Lawsuits Now Threaten All Farmers,” Farm Progress, 10 Dec. 2018.
[36]Krebs, Denise, “Our Right to Farm,” American Farm Bureau Federation - The Voice of Agriculture, 8 Aug. 2018.

[37] Goeringer, Paul, “Right-to-Farm Law Does Not Apply in a Recent North Carolina Hog Farm Dispute,” Medium, 20 May 2018.
[38] Krebs, Denise, “Our Right to Farm,” American Farm Bureau Federation - The Voice of Agriculture, 8 Aug. 2018.
[39] Goeringer, Paul, “Right-to-Farm Law Does Not Apply in a Recent North Carolina Hog Farm Dispute,” Medium, 20 May 2018.
[40] Ibid.
[41] Blythe, Anne, “Hog Farmers Win New Protections as Lawmakers Override Roy Cooper's Veto,” The News & Observer, 27 June 2018.
[42] House Bill 467 (Ratified), North Carolina General Assembly, 2017.
[43] “RESOURCES,” Florida Ag Coalition.
[44] Ibid.
[45] Hudson, Mark. “Agriculture in the Sunshine State.” USDA, 15 Oct. 2019.
[46] Ibid.
[47] “Florida Agriculture.” Farm Flavor, 27 Jan. 2021.
[48] Everglades Forever. Florida Department of Environmental Protection, 2020.
[49] Ibid.
[50] Statutes & Constitution: View Statutes: Online Sunshine, 16 Mar. 2021.
[51] Ibid.
[52] Ibid
[53] Rivera, Cameryn, “A Fresher Law: Amending the Florida Right to Farm Act to Include Urban Micro Farming as a Key Initiative to Promote Sustainability, Food Access, and Environmental Justice for Low-Income Communities,” Florida A & M Law Review, vol. 8, no. 2, 2013, pp. 406–407.
[54] “What Is Florida's Right to Farm Act?” Central Florida Ag News, 14 Apr. 2014.
[55] Ibid.
[56] Ibid.
[57] Ibid.
[58] “Florida Expected to Add More than 300K People a Year, State Report Says,” WESH, 20 Nov. 2020.
[59] Hart, John, “Nuisance Lawsuits Now Threaten All Farmers,” Farm Progress, 10 Dec. 2018.
[60] Sweeney, Dan, “Sugar Companies Hit with Federal Class-Action Lawsuit over Health Effects of Cane Field Burns,” South Florida Sun-Sentinel, 5 June 2019.
[61] Ibid.
[62] Ibid.
[63] Ibid.
[64] “Sugar Farmers Again Seek Dismissal of Lawsuit Alleging Harm from Sugarcane Burns,” Florida Politics, 21 Dec. 2020.
[65] Ibid.
[66] Ibid.
[67] Senate Bill 88, The Florida Senate, 2021 Session, latest action: on Special Order Calendar, March 11, 2021.
[68] Peter Schorsch, “To protect Florida farmers from bogus threats, strengthen the state’s ‘Right to Farm,’” Florida Politics, March 5, 2021.