FIRST REGULAR SESSION

SENATE BILL NO. 84

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

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Section A. Sections 44.100 and 537.295, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 1.400, 44.100, and 537.295, to read as follows:

1.400. 1. This section shall be known and may be 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 the amount or type of precipitation that falls from clouds by dispersing substances into the air that serve as cloud condensation or ice nuclei, which alter the microphysical processes within the cloud; or

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

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

   (3) "Farming" or "ranching", the use or cultivation of 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.
livestock products, poultry or poultry products, milk or
dairy products, or fruit or other horticultural products;

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

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

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

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

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

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

6. No penalty as a result of a violation of any
provision of law, order, ordinance, rule, regulation,
policy, or similar measure enacted, adopted, maintained, or
enforced by any department or agency of this state or any
political subdivision thereof regarding the protection of
the environment shall require the closure of a farming or
ranching operation or restrict the consumption or sale of
food products.

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

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

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

"WARNING: CONSUME AT YOUR OWN RISK."

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

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

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

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

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

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

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

   a. Any means of transportation, other than railroads and railroad equipment and fuel, and all fuel necessary for the propulsion thereof;
b. Any communication system or part thereof necessary to the prompt and efficient functioning of the emergency management of the state;

c. All stocks of fuel;

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

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

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

(f) Use or distribute all or any of this property among the inhabitants of the state in any area adversely
affected by a natural or man-made disaster and to account to
the state treasurer for any funds received thereof;

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

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

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

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

(k) Authorize the director of finance and the director
of credit unions to waive or suspend the operation of any
statutory requirement or administrative rule applicable to
the division of finance, banking, financial services, or the
division of credit unions and take action and give direction
to banks, credit unions, and financial institutions,
including coordinating actions with emergency responders,
federal agencies, and state banking and credit union associations as may be reasonable and necessary to preserve the safety and soundness of banks, credit unions, and financial institutions; and facilitate disaster response and recovery efforts to serve essential civil needs and protect the public interest.

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

537.295. 1. No agricultural operation or any of its appurtenances shall be deemed to be a nuisance, private or public, by any changed conditions in the locality thereof [after the facility has been in operation for more than one year, when the facility was not a nuisance at the time the operation began. An agricultural operation protected pursuant to the provisions of this section may reasonably expand its operation in terms of acres or animal units without losing its protected status so long as all county, state, and federal environmental codes, laws, or regulations are met by the agricultural operation. Reasonable expansion shall not be deemed a public or private nuisance, provided the expansion does not create a substantially adverse effect upon the environment or creates a hazard to public health]
and safety, or creates a measurably significant difference in environmental pressures upon existing and surrounding neighbors because of increased pollution. Reasonable expansion shall not include complete relocation of a farming operation by the owner within or without the present boundaries of the farming operation; however, reasonable expansion of like kind that presently exists, may occur. If a poultry or livestock operation is to maintain its protected status following a reasonable expansion, the operation must ensure that its waste handling capabilities and facilities meet or exceed minimum recommendations of the University of Missouri extension service for storage, processing, or removal of animal waste, except for those agricultural operations or any of its appurtenances used for production of swine or swine products located within counties of the first classification, including those counties of the first classification with a charter form of government, that unreasonably expand in violation of zoning laws or ordinances. The protected status of an agricultural operation, once acquired, shall be assignable, alienable, and inheritable. The protected status of an agricultural operation, once acquired, shall not be waived by the temporary cessation of farming or by diminishing the size of the operation. The provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances.

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

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

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

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