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## **States' Right-To-Farm Statutes**

**State of Kansas**

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## States' Right-to-Farm Statutes

### STATE OF KANSAS

#### Kan. Stat. Ann. §§ 2-3201 to 2-3204

*Current through 2009 Regular Session*

#### **2-3201. Protection of farmland and agricultural activities; purpose**

It is the declared policy of this state to conserve and protect and encourage the development and improvement of farmland for the production of food and other agricultural products. The legislature finds that agricultural activities conducted on farmland in areas in which nonagricultural uses have moved into agricultural areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses. It is therefore the purpose of this act to provide agricultural activities conducted on farmland protection from nuisance lawsuits.

#### **2-3202. Certain agricultural activities not a nuisance**

Agricultural activities conducted on farmland, if consistent with good agricultural practices and established prior to surrounding nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance, public or private, unless the activity has a substantial adverse effect on the public health and safety.

If such agricultural activity is undertaken in conformity with federal, state, and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety.

#### **2-3203. Definitions**

As used in this act:

- (a) "Agricultural activity" means the growing or raising of horticultural and agricultural crops, hay, poultry and livestock, and livestock, poultry and dairy products for commercial purposes.
- (b) "Farmland" means land devoted primarily to an agricultural activity.
- (c) "Person" means any individual, partnership, profit or nonprofit corporation, trust, organization or any other business entity, but does not include any governmental entity.
- (d) "Agricultural chemical" means those agricultural chemicals as defined in the agricultural chemical act set forth in K.S.A. 2-2201 et seq., and amendments thereto.

#### **2-3204. Action for injunction alleging misuse of chemicals; when attorney fees and expenses assessed**

In any case in which an action for injunction is brought alleging the prior misuse of agricultural chemicals and the court finds that the defendant properly used the agricultural chemicals according to state and federal law and the label instructions and that the plaintiff sustained no damages from the use of such agricultural chemicals, the court may assess against the plaintiff reasonable attorney fees and expenses incurred by the defendant as a result of such action. In

addition, the court may assess against the plaintiff additional losses and costs incurred by the defendant upon proof that such losses and costs were the result of an injunction granted as part of such action. Any assessment under this section shall be reduced (but not below zero) by an amount equal to the amount of any bond forfeited to the defendant under article 9 of chapter 60 of the Kansas Statutes Annotated. An assessment under this section shall be collected as costs in the action. This section shall be part of and supplemental to the provisions of article 32 of chapter 2 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto.