

HOUSE _____ AMENDMENT NO. ____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 795, Section 1, Page 42, Line 2, by
2 inserting the following after all of said Line:

3
4 “Section 2. 1. Damages allowable for a private nuisance on property used for farming
5 purposes as defined in sections 262.801 and 262.805 shall be as follows:

6 (1) If the nuisance is a permanent nuisance, compensatory damages shall be measured by
7 the reduction in the fair market value of the claimant’s property caused by the nuisance, but not to
8 exceed the fair market value of the property;

9 (2) If the nuisance is a temporary nuisance, compensatory damages shall be measured by
10 the diminution in the fair rental value of the property which resulted from the nuisance;

11 (3) No damages shall be awarded for annoyance, discomfort, sickness, emotional distress,
12 or similar claims for a private nuisance.

13 2. In the event a claim for injury or damages to a person is asserted in the same
14 proceeding as a claim for damage to the claimant’s property cause by a private nuisance, liability
15 for such personal injury or damage shall be determined on the basis of applicable principles of tort
16 law independent of whether the defendant’s use of property is found to constitute a nuisance.

17 3. In any action for private nuisance where the amount in controversy exceeds one
18 million dollars, if any party requests the court or jury to visit the property alleged to be affected by
19 the nuisance, the court or jury shall visit the property.

20
21 [537.296. In any action for private nuisance where the amount in controversy exceeds one
22 million dollars, if any party requests the court or jury to visit the property alleged to be affected by
23 the nuisance, the court or jury shall visit the property.]”; and

24
25 Further amend said bill by amending the title, enacting clause, and intersectional references
26 accordingly.