

HB 209 -- PRIVATE NUISANCE ACTIONS

SPONSOR: Guernsey

COMMITTEE ACTION: Voted "do pass" by the Committee on Agri-Business by a vote of 15 to 0.

Currently, if any party in an action for private nuisance where the amount in controversy exceeds \$1 million requests the court or jury to visit the property alleged to be affected by the nuisance, the court or jury is required to visit the property. This bill removes the dollar amount in controversy and requires a visit if any party makes a request.

The bill also specifies that the exclusive damages that may be awarded to a claimant for a private nuisance originating from property used for farming, agriculture, crop, or animal production purposes are:

- (1) For a permanent nuisance, compensatory damages measured by the reduction in the fair market value of the claimant's property caused by the nuisance, not to exceed the fair market value of the property; and
- (2) For a temporary nuisance, compensatory damages measured by the reduction in the fair rental value of the property which resulted from the nuisance.

If a successive claim for temporary nuisance related to a similar activity or use of the defendant's property is brought against the same defendant or the defendant's successor by the same claimant or the claimant's successor with ownership or possessory interest and the activity or use of property at issue is deemed a nuisance, the activity or use of property must be considered a permanent nuisance and the claimant must be limited to and bound by the remedies available for a permanent nuisance. The bill does not prohibit a person from recovering damages for annoyance, discomfort, sickness, or emotional distress if the damages are awarded on the basis of a cause of action independent of a claim of nuisance.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill will benefit farmers and agriculture, the number one industry in Missouri, by protecting farmers from continually being served with nuisance lawsuits. A plaintiff will be required to prove how he or she was injured, and damages will be limited to the fair market value.

Testifying for the bill were Representative Guernsey; Missouri Corn Growers Association; Missouri Cattlemens Association; Jim Howerton; Missouri Pork Association; Missouri Agribusiness Association; Missouri Soybean Association; and County Commissioners Association of Missouri.

OPPONENTS: Those who oppose the bill wanted to go on record in opposition to the bill.

Testifying against the bill was Missouri Association of Trial Attorneys.