

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Substitute for Senate Bill No. 293, Page 3, Section 319.318, Line 79, by inserting
2 immediately after said section and line the following:

3
4 "537.296. 1. As used in this section, the following terms mean:

5 (1) "Claimant", a person who asserts a claim of private nuisance;

6 (2) "Covered entity", a person or entity who owns property that:

7 (a) Is primarily used for crop or animal production purposes; or

8 (b) Is operating in compliance with a permit issued by the Missouri department of natural
9 resources, the United States Environmental Protection Agency, or the United States Army Corps of
10 Engineers, or a license issued by the division of fire safety under section 319.306;

11 (3) "Fair market value", the price that a buyer who is willing but not compelled to buy
12 would pay and a seller who is willing but not compelled to sell would accept for property;

13 ~~[(3)]~~ (4) "Fair rental value", the price a lessee who is willing but not compelled to lease
14 would pay and a lessor who is willing but not compelled to lease would accept;

15 ~~[(4)]~~ (5) "Ownership interest", holding legal or equitable title to property in fee or, in a life,
16 or in a leasehold interest;

17 ~~[(5)]~~ (6) "Possessory interest", lawfully possessing property but does not include mere
18 occupancy;

19 ~~[(6)]~~ (7) "Property", real property.

20 2. The exclusive compensatory damages that may be awarded to a claimant for a private
21 nuisance ~~[where the alleged nuisance emanates from property primarily used]~~ for crop or animal
22 production purposes or an activity covered by a permit issued to the covered entity shall be as
23 follows:

24 (1) If the nuisance is a permanent nuisance, compensatory damages shall be measured by
25 the reduction in the fair market value of the claimant's property caused by the nuisance, but not to
26 exceed the fair market value of the property;

27 (2) If the nuisance is a temporary nuisance, compensatory damages shall be measured by the
28 diminution in the fair rental value of the claimant's property caused by the nuisance;

29 (3) If the nuisance is shown by objective and documented medical evidence to have caused
30 a medical condition to claimant, compensatory damages arising from that medical condition may be
31 awarded in addition to the exclusive damages permitted under subdivisions (1) and (2) of this
32 subsection.

33 3. Concerning a private nuisance ~~[where the alleged nuisance emanates from property~~
34 ~~primarily used for crop or animal production purposes]~~ described in subsection 2 of this section, if
35 any claimant or claimant's successor with ownership interest brings any subsequent claim against
36 the same defendant or defendant's successors for temporary nuisance related to a similar activity or

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1 use of the defendant's property, and such activity or use of property is deemed a nuisance, the
2 activity or use of property at issue shall be considered a permanent nuisance and such claimant and
3 claimant's successors shall be limited to and bound by the remedies available for a permanent
4 nuisance.

5 4. If a covered entity is a defendant in a private nuisance case [~~where the nuisance is alleged~~
6 ~~to emanate from property used for crop or animal production purposes~~] and such entity
7 demonstrates a good faith effort to abate a condition that is determined to constitute a nuisance, the
8 nuisance shall be deemed to be not capable of abatement. Substantial compliance with a court order
9 regarding such property shall constitute such a good faith effort as a matter of law.

10 5. Concerning a private nuisance where the alleged nuisance emanates from property
11 primarily used for crop or animal production purposes, no person shall have standing to bring an
12 action for private nuisance unless the person has an ownership interest in the property alleged to be
13 affected by the nuisance.

14 6. Nothing in this section shall:

15 (1) Prohibit a person from recovering damages for annoyance, discomfort, sickness, or
16 emotional distress; provided that such damages are awarded on the basis of other causes of action
17 independent of a claim of nuisance; or

18 (2) Prohibit the recovery of any damages, direct, consequential, or otherwise, resulting from
19 or relating to crop destruction, crop damage, contamination of the seed supply, or a diminution of
20 crop value resulting from contamination of the seed or grain supply, herbicide drift, or other
21 diminution of crop value.

22 7. If any party requests the court or jury visit the property alleged to be affected by the
23 nuisance in an action for private nuisance where the amount in controversy exceeds one million
24 dollars, the court or jury shall visit the property.

25 8. A copy of the final judgment in any action alleging a private nuisance shall be filed with
26 the recorder of deeds in the county in which the final judgment was issued and shall operate as
27 notice to any purchaser of the claimant's property that the property was related to a previous claim
28 for nuisance."; and

29
30 Further amend said bill by amending the title, enacting clause, and intersectional references
31 accordingly.