

Right to Farm 101 for Aquaculture Stakeholders in Tennessee

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Commercial aquaculture operations, like traditional agricultural operations, sometimes face legal challenges from neighbors raising concerns about farm operations. Nuisance lawsuits filed against agricultural operations often involve allegations by neighboring property owners that the odor, dust, or noise associated with farming is interfering with their ability to enjoy and use their property. In general, “right-to-farm” legislation protects agricultural operations from such nuisance claims when certain conditions are satisfied. This document examines Tennessee’s right-to-farm legislation and how it applies to commercial aquaculture. For a more comprehensive explanation of right-to-farm laws and their significance, please refer to the National Sea Grant Law Center’s document entitled “Aquaculture and the Right to Farm,” which can be found at <http://nsglc.olemiss.edu/projects/ag-food-law>.

State right-to-farm laws usually contain the following key elements:

- **Time in Operation Requirements** designating how long agricultural operations must be in existence before any statutory nuisance defense becomes available;
- **Preemption Clauses** ensure that municipal laws do not diminish nuisance protections for farmers;
- **Legal Presumptions or Complete Defenses** for farmers operating in conformance with applicable laws;
- **Exceptions** for recovery of damages due to injury; for public health, safety, and/or welfare; and/or for improper or negligent operation of farms; and
- **Best Management Practices (BMPs)** that farmers must adhere to for nuisance protections to apply.

The second page of this fact sheet provides a snapshot summary of Tennessee’s right-to-farm legislation with respect to these key elements. While the following information encompasses the state’s statute as it exists in 2018, it is important for aquaculture stakeholders to remember that, because the industry is developing, states may alter or add to their right-to-farm legislation in the future. The outcome of related court cases could also alter applicable provisions of a state’s right-to-farm law. Aquaculture stakeholders should consult an attorney or another outside source before taking any action based on the following information. Interested parties might first contact one of the land-grant Extensions either at Tennessee State University or the University of Tennessee.

For more information about these programs:

Tennessee State University Cooperative Extension: <http://www.tnstate.edu/extension>

University of Tennessee Extension: <https://extension.tennessee.edu>



Summary of Tennessee's Right-to-Farm Legislation

- Tennessee's Right to Farm Act was enacted in 1982 and can be found in the Tennessee Code at Sections 43-26-101 – 104.
- Tennessee's definition of "farm operation" includes activities that occur on a farm in connection with the commercial production of farm products. "Farm products" include plants and animals useful to humans, including fish.
- In Tennessee, agricultural operations are not nuisances if conforming to generally accepted agricultural practices.
- Tennessee's legislation carries no time in operation requirement.
- Tennessee's legislation carries no provisions related to preemption.
- Tennessee's Right to Farm Act creates a rebuttable presumption that a farm operation is not a nuisance. This presumption can be overcome only if the claimant establishes that either:
 - The farm operation does not conform to generally accepted agricultural practices; or
 - The farm operation does not comply with any applicable statute or rule, including those administered by the Department of Agriculture or the Department of Environment and Conservation.
- Tennessee's legislation contains no exceptions to nuisance protection.
- Tennessee requires farms to conform to generally accepted agricultural practices in order to preserve nuisance protection.
- Tennessee has not yet produced a BMP manual related to aquaculture.