

## Testimony SB2174

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Testimony in Opposition for SB2174

To the Honorable Chairman and the members of the Committee. We submit these remarks on behalf of DRC.

Mr Chairman,

We stand in opposition to SB2174 for the following reason: Yes we do need a bare minimum standard for all townships regarding AFO laws in our state. I personally have attended the Model Zoning Task Force Meetings where the parameters of this bill were drawn up.

In our previous testimony submitted for the creation of that force, we mentioned that there were too many industry members and not enough experts on public health and safety to consider the needs of the public. As we predicted it became a room of people trying to make a policy as industry-friendly as possible while vilifying Township Board members and local governments at every chance they could get. It was repeatedly stated that they wanted to get these facilities built with as little litigation as possible while ignoring that if done improperly these facilities can cause damage to communities.

We would like break down some of the flaws in SB2174:

1. **Page 2 line 40: This bill strips away remaining township rights...**By stating that the only things townships will be able to do are prescribed in this law you are effectively stripping all remaining rights from townships and counties.
2. **Page 5 Section 2 amendment. The animal number increases make no sense.** This bill will change the setback numbers for animals drastically but seems to make absolutely no sense. 1000 animals at  $\frac{1}{4}$  mile, 3,500 animals  $\frac{1}{2}$  mile, 7,500  $\frac{3}{4}$  mile, 10,000 animals 1 mile, 17,500  $1\frac{1}{4}$  miles, 25,000  $1\frac{1}{2}$  miles, and over 25k at  $1\frac{3}{4}$  miles. At  $\frac{1}{4}$  mile to  $\frac{1}{2}$  you see a jump of 2,500 animals.  $\frac{1}{2}$  to  $\frac{3}{4}$  is a jump of 4,000 animals. But  $\frac{3}{4}$  to 1 mile is 2,500 animals. 1 mile to  $1\frac{1}{4}$  miles is 7,500 more animals.  $1\frac{1}{2}$  miles is a jump of 7,500 more animals. There is no rhyme or reason for these setbacks. There is also no differentiation between animals and swine. A 25,000 animal unit operation for swine will have 62,500 animals on site, current regulations ask for a mile and a half for all swine operations at 5000 head or 12,500 swine. You're basically looking at almost 5 times the number of animals packed into a smaller area than previously zoned. This is

not because of technological advancements in livestock management. This is because of greed.

3. **Page 8 Line 8 Odor annoyance-free percentage** This is the section that will cause the most problems with local residents and townships. By enacting this piece of legislation it is a backdoor to reduce setbacks even further. With most animal feeding operations shown during the model zoning committee, the 94% odor free annoyance levels were shown to be significantly smaller than the setback lines drawn in. This hyper-focus on odor ignores other aspects of setbacks such as if there is a biodigester on site storing large quantities of methane that could be explosive, asthma and other pollution triggers that may not smell but harm air quality, or disease transmission. Bird flu has recently been discovered in dairy cattle, and swine operations have various bio security precautions because of large numbers of animals that can transfer disease to humans. Simply put odor is not the only output that needs to be measured to ensure public health and safety. If you want to give townships some semblance of local control you should set the max at 98% odor annoyance, with a minimum of 94%.
4. **Cities Rights. Page 7 line 30 b.** Cities should be given more rights to extend their setbacks for low-density agriculture production areas. We would recommend 1 mile for low density agriculture because typically that is what cities are afforded for their extraterritorial zones.
5. **Township Rights.** If you are to pass this bill you should consider the following options:
  - a. Townships should be able to collect fees for road maintenance from the proposed AFO. You can control this by putting a cap on the maximum allowed road fees.
  - b. Townships should be allowed to place conditions monitoring wells for contamination and having clear language that can settle disputes if an AFO dries up or contaminates someone's private well.

While a standardization of AFO law is needed, the standards imposed do not do enough to protect citizens and give too much leeway for industry to do what they wish in our communities for us to support as an organization. If the setbacks were increased to a minimum of 2 miles for operations with 15,000 animals or above, the 94% odor language changed to 98% for townships that want it that could be reduced to no lower than 94% if they wish, and increased protections for cities and townships were permitted we could see this bill as acceptable.

However, as it is written. We recommend DO NOT PASS.

From our membership

Please do not support SB 2174 because it lowers the setback distances for CAFO's, it also removes the distinction between hogs and other livestock. Karl Rockman, from the NDDEQ told me hogs should have a greater setback than other livestock and as a retired farrow to finish hog producer and cow/calf producer, I totally agree. ND always has had this distinction. ND Ag Department thinks ND setbacks need to be more inline with other states, have you ever thought we don't want to be like other states that have all those CAFO problems because they are placed to close to rural communities and the rural people. The odor footprint tool has not been proven in ND. The odor footprint tool has not even been developed in ND. If it's been used in Nebraska that's not pertinent to ND. For example weather is not the same in Nebraska as it is in North Dakota. Remember a few sessions ago when we presented our CAFO facts from other states and how they could negatively affect ND?

Well we got shot down because you said our CAFO facts were not pertinent to ND.

Townships used to have the right to increase setback distances by 50%. Legislation took that right away. Swine under 55# used to be counted as a .1 AU (Animal Unit). Legislation took that away. This bill is just more legislation that takes away more local control! People of ND are not being heard!

Lee Fraase. Buffalo ND

Sent from my iPad