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Discovering the Legal Concerns of the Tennessee Agricultural Community

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PREVIOUS ARTICLE



ISSUE CONTENTS



NEXT ARTICLE



Discovering the Legal Concerns of the Tennessee Agricultural Community

Abstract

New production strategies, changing consumer demand, dramatic revisions to federal programs, and new state programs have expanded the choices and decisions that farm families are faced with on a daily basis. Many of the day-to-day activities of farmers and ranchers involve commitments that have legal implications. Understanding these legal issues can lead to better risk-management decisions. The most successful farmers are now looking at a deliberate and knowledgeable approach to legal risk management as a vital part of their farm plan. An important finding of the study reported here is that farmers often seek educational materials from state Extension programs.

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Introduction

As we begin the twenty-first century, the challenges to successful farm management are numerous. Farmers face changes in farm, environmental, and tax policy, plus significant advances in emerging technologies. Changes in regulatory and environmental policy have also increased farmers' legal risks. Legal issues alone can take their toll on someone financially and emotionally (Williams, 1996).

In the mid-70s, Kershen (1976) reported farmers' need for legal information, which required involvement of attorneys in the planning and formulation of institutional arrangements, legislative strategy, and agricultural interests. Production by contract or organizing the farm into a partnership or corporation can significantly affect a farmer's bottom line by increasing the farm's profitability or efficiency. However, there may be an accompanying increase in legal and/or financial risks.

For many farmers, as legal concerns and issues increase, farm financial resources remain limited. Morehart and Ryan (2002) reported that farming as the primary source of household income (i.e., families earning 80% or more from farming) has continued to decline to just 12% of farm households, and off-farm wages and salaries have continued to increase (i.e., 45% of farm households earning majority of income off-farm). In 2001 the USDA classified 28% of U.S. farmers as "limited-resource" and "low-sales" small family farmers, most of whom simply cannot afford legal representation (Flink, 2002).

Likewise, the agricultural education sector faces many challenges, including whether to assist independent producers with their greatly expanding and changing legal issues. The challenge of addressing these legal concerns poses complex issues for most state Extension programs. Determining which legal area(s) to address is a tremendous task for Extension program

administrators. Given limited financial resources, many Extension programs steer clear of addressing legal issues or concerns altogether, while a few states have chosen to provide educational information on specific topics.

Three universities currently have agricultural law research centers: Drake University in Iowa, University of Arkansas, and Pennsylvania State University. Two of these research centers are funded by the USDA, and none of them provide any legal representation. They are staffed by attorneys and law students, and work in conjunction with their law school. They provide valuable research for attorneys and people working in the agricultural sector across the country.

At Arkansas' National Center for Agricultural Law Research and Information, a Web-based library of resources is available as well as an updated list of USDA decisions (NCALRI, 2005). Pennsylvania's Agricultural Law Research and Education Center is funded by the Pennsylvania Department of Agriculture and began as a joint venture between the PSU College of Agriculture and the Dickinson Law School (McConnaughay, 2003). It provides continuing education programs for lawyers, information and outreach services to farmers, and training for extension agents on legal issues affecting their farmers.

At least two states, Iowa and Ohio, have some legal education available through state Extension Services. Iowa Concern started in 1985 to help the agricultural community during the S&L crisis but now services both urban and rural communities (ISU, 2005). People can call toll-free for access to an attorney for legal education or information and referral services. Iowa Concern can also be accessed through the Web by email. Likewise, the Ohio program is designed for educational purposes and has information on a variety of agricultural legal topics that producers can access. These programs are staffed through the Extension Service and generally administered by a staff attorney. Purdue University has a staff attorney in agricultural law in the Department of Agricultural Economics, but does not have a specific educational legal center (Purdue, 2006).

Additionally, North Carolina and Illinois provide limited legal education through university centers. North Carolina State University has a program called "Ask the Specialist" through the Department of Family and Consumer Sciences (NCSU, 2005). The service answers questions about legal issues, particularly estate planning for farm families.

The University of Illinois at Urbana-Champaign has an educational Web site available to farmers called "farmdoc." The goal of the Farmdoc (farm decision outreach central) Project is to improve farm decision-making under risk through education and research. One of the subject headings available is Law and Taxation. The Web site includes a disclaimer telling visitors that, "the information on this Web site does not constitute legal advice. The law is constantly changing, and we make no warranty of the accuracy of information on this site or any site to which we link. If you need legal advice, you should contact an attorney" (UIUC, 2005).

Several non-profit agricultural law centers exist that specifically provide legal representation for farmers. These are typically funded through donations or grants, but not with state dollars. The Minnesota-based Farmers Legal Action Group uses four methods to help its clients: education, backup support, impact litigation, and administrative and technical legal assistance (FLAG, 2005). FLAG conducts seminars around the country for farmers and lawyers and produces user-friendly publications. The organization's support services include explaining laws, providing research, reviewing and analyzing cases, and maintaining a toll-free line that Minnesota farmers, lawyers, and advocates can call for brief advice and referrals.

Although there are many types of legal service centers throughout the United States, farmers are often reluctant to seek assistance due to financial and/or social reasons (Weigel, 2003). One source of information most often relied upon by farmers is their State Extension Services. This is true of the University of Tennessee Extension (UT Extension), which caters to the fourth largest number of farms in the nation, 87,595 (TASS, 2002).

The UT Extension made 3.4 million contacts from January 1 - December 31, 2004 with farmers/producers and farm organizations (Donaldson, 2005). While many of the farms are small, a significant portion (about 30%) earns over 50% of their income from farming (TASS, 2002). Due to several labor-intensive crops (e.g., vegetables, melons, nursery, fruits, etc.), Tennessee has the sixth highest number of migrant workers in the country (Effland & Runyan, 1998). However, there are no agricultural law emphases, programs, clinics, or committees at any of the law schools or universities in the state or within the Tennessee Bar Association (TBA, 2005).

While these facts make a case for directing educational resources toward agricultural legal issues in Tennessee, surveying farm operators about their legal concerns could help determine whether educators should consider developing a legal service/educational program.

Objective

The goal of the project reported here was to assess the legal concerns that are most important to Tennessee farm operators. The UT Extension, Farm Service Agency (FSA), Farm Bureau Staff, Natural Resources Conservation Service (NRCS), publications (journals, magazines, newspapers, etc.), Web sites, and other sources were included in this study as alternative sources of information. However, only farm operators' attitudes about UT Extension legal information are presented here.

Methods

In December 2002, data on farm and farm operator characteristics and financial characteristics were collected at the Tennessee Farm Bureau Federation Convention held in Nashville, TN. A booth was set up in the foyer of the conference center where convention attendees were invited to complete an on-site survey. Of the approximately 600 Tennessee farmers attending the convention, 145 completed a survey. The survey was developed by the authors with help from members of the UT Extension faculty. The survey was reviewed and approved by the UT Office for Human Research as well as the Tennessee Farm Bureau administration. The Tennessee Farm Bureau Convention was chosen for the study as a least-cost method due to funding limitations.

The survey included questions regarding farm and farm operator characteristics and 10 additional questions regarding legal concerns/issues. The first question asked respondents if they had used any legal services within the last year and within the last 5 years. Respondents were then asked to mark all categories related to their need for legal services. These categories included: nuisance complaints, animal liability, environmental regulations, negligence, zoning/planning, contracts, estate/wills/trusts, bankruptcy, labor, loan mediation, liability, and other issues.

Additionally, respondents were asked to rate the "importance" of legal issues as valid agricultural concerns for profitability and/or sustainability of an enterprise. A rating scale from 1 to 10 was used, with 1 denoting "not important" and 10 denoting "very important." In the study, responses were judged "important," if the issue received a rating of 8, 9, or 10. Additional questions involved: 1) resisting legal assistance due to cost; 2) how well current available services met the legal needs of Tennessee producers; and 3) how well did people assisting with legal services understand their agricultural legal issue(s).

Findings and Interpretation

Fifty-eight of Tennessee's 95 counties are represented in the survey. The average farm operator in this study was 52.3 years old with 2001 personal adjusted gross income of \$56,000. About 24% owned fewer than 100 acres, with 68% owning more than 300 acres. Table 1 shows the comparison between survey respondents and the average Tennessee farmer demographics. Thirty-nine percent had used a legal service within 2002 and 60% within the last 5 years.

Table 1.
Demographic Comparison Between Survey Respondents and Average Tennessee Farmer

Category	Survey	Average Tennessee Farmer ^a
Average Age (year)	52.3	55
Average Farm Size (acres)	451	145
Adjusted Gross Income (\$)	\$56,000	\$33,051
^a TASS (2001)		

Table 2 reports farmers' responses for the categories that best represent the reason for their need for legal services within the last 5 years. By far the category with the greatest frequency of response was Estates/Wills/Trusts, with 66. The next two categories were Contracts and Loan Mediation, with 26 and 22 responses, respectively. Zoning had 10 responses, and the other categories (nuisance complaints, environmental regulations, labor, liability, negligence, and bankruptcy) each had fewer than 10 responses. These are the categories that had concerned farm operators enough to use an attorney within the last 5 years.

Table 2.
Categories Related to Farmers' Need(s) for Legal Services

Category	Number of Responses
Estates/trusts/wills	66
Contracts	26
Loan Mediation	22
Other	22
Zoning/Planning	10
Liability	8
Environmental regulations	4
Bankruptcy	3
Nuisance complaints	2

Labor	1
Negligence	0

When asked which of the following sources are you likely to contact about new or changing rules, regulations, or laws for the commodities they produce (Table 3), 75% said they had contacted the UT Extension agents, with 66% and 65% marking Farm Bureau Staff and Farm Service Agency, respectively. Natural Resource Conservation Service staff was chosen by 52% of respondents. The farmers overwhelmingly chose these organizations over print resources such as magazines, journals, and Web sites. When asked to identify reasons for contacting their County Extension Agent, 76% marked disease control/pest management showing the importance farmers place on Extension expertise and educational materials. Additionally, 45% marked farm management, government policy and regulations, and new technology, and 15% marked legal concerns.

Table 3.
Sources Farmers Are Likely to Contact About New or Changing Rules,
Regulations, or Laws Regarding the Commodities They Produce

Source Contacted	Percentage
County Extension Agent	75
Farm Bureau Staff	66
Farm Service Agency	65
Natural Resources Conservation Service (NRCS) Staff	52
Publications (journals, magazines, newspapers, etc.)	42
Web site(s)	21
Other Source(s)	4.8

The producers were allowed to add any final comments they had about current legal service(s) available or how best to meet their needs. Fourteen percent added comments, and the comments reflected a wide range of views. One producer wrote that he had never needed to use legal services, and another said he did not know what was available. Another stated that he thought lawyers caused 98% of the problems in government. Several producers stated that farmers need better legal services and more information on estates, wills, taxes, contract issues, leases, and environmental regulations.

Four of the respondents suggested that either Farm Bureau and/or the UT Extension should provide a staff attorney for consultation about legal matters relating to agriculture. One of these four respondents suggested that having workshops on legal issues conducted by persons with legal background on agricultural matters, coordinated and advertised by the county Extension office, would be helpful.

A logistic regression model was used to estimate the influence of farm and farm operator characteristics on farm operators' legal concerns. The logistic regression model was considered appropriate because the results could be used to assess the influence of characteristics on the likelihood that a farm operator judged a particular legal concern as important. The Statistical Package for Social Sciences (SPSS) version 13.0 was used for all statistical analyses (SPSS, 2004).

The logistic model results presented in Table 4 show the significant variables and corresponding coefficients for the top three legal concerns from Table 2; Estates/Wills/Trusts, Loan Mediation, and Contracts. Three models were developed utilizing these three legal concerns as separate dependent variables. The independent variables for each model included operator age, livestock enterprises, crop enterprises, owned land, rented land, income, and a dummy variable on whether the county was rural or urban.

Table 4.
Logistic Regression Model Results

Legal Concern	Variable	B	S.E.	Wald	df	Sig.
Estates/Wills/Trusts	Dairy Cattle	1.086	0.509	4.557	1	0.033**
	Owned Land	0.708	0.315	5.048	1	0.025**
	Tobacco	1.416	0.519	7.430	1	0.006***
Contracts	Dairy Cattle	-2.278	1.159	3.861	1	0.049**
	Income	2.235	1.062	4.425	1	0.035**
	Poultry	2.692	1.506	3.198	1	0.074**
	Rented Land	1.975	0.914	4.671	1	0.031**

Loan Mediation	Cotton	2.698	1.467	3.383	1	0.066**
	Income	3.633	1.162	9.772	1	0.002***
	Other Livestock	3.951	1.584	6.221	1	0.013**
** Significant at 5% and *** Significant at 1%						

Results for Estates/Wills/Trusts show that producers that raised dairy cattle or grew tobacco were more likely to be concerned with Estates/Wills/Trusts. Additionally, as the size of owned land increased, producers were more likely to be concerned with Estates/Wills/Trusts. It was initially hypothesized that Age would have a positive relationship with Estates/Wills/Trusts, but it was not a significant predictor. One explanation of this occurrence could be a result of conducting the survey at the Tennessee Farm Bureau convention. The age of those participating in the survey ranged from 19 to 92 years old, with an average of 52.3 years and a standard deviation of 14.4 years. With the majority (53.8%) of respondents falling in the 45 - 60 range, the independent variable Age was not a good predictor of the top three legal concerns.

Results for Contracts revealed that dairy cattle producers were less likely to be concerned with Contracts. Furthermore, as producer incomes increased, producers were more likely to be concerned with Contracts and Loan Mediation. Additionally, producers who raised poultry or rented land were more likely to be concerned with Contracts. In the third model, Loan Mediation, a positive relationship was shown between producers that grew cotton or other livestock.

Summary and Implications

An internal review of the study's results reinforces the notion that factors affecting farm operators seeking legal services are not easily discovered. When faced with limited or non-existing agricultural legal services and/or educational sources (TBA, 2005), farmers are left to navigate the increasing farm level legal issues on their own. Findings of Williams (1996) indicate that pride and lack of awareness of available Extension information prevented farmers from seeking information regarding legal concerns. The results of the survey/model suggest that farmers would react positively to Extension educational programs in several legal areas.

Perhaps the most important implication of the study is that farmers understand the role of the UT Extension as a source of technical and production information and recognize that the UT Extension does not provide legal counsel. A comprehensive study of legal service centers in other states (e.g., Iowa, Ohio, Pennsylvania, North Carolina, and Arkansas) could provide possible designs to improve information on legal topics in Tennessee.

Weaknesses that may have affected the outcome of the research were identified. Lack of survey funding constrained the administration of the survey to Tennessee Farm Bureau convention participants. Limiting survey participation slightly skewed the data toward larger, more affluent farm operators. We suggest that the survey be expanded in scope across Tennessee and additional questions added to improve the data set for analysis.

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