

41-1-7 G

*** CODE SECTION *** 12/31/98

41-1-7.

(a) It is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural land and facilities for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance actions. As a result, agricultural facilities are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements or adopting new technology or methods. It is the purpose of this Code section to reduce losses of the state's agricultural resources by limiting the circumstances under which agricultural facilities and operations may be deemed to be a nuisance.

(b) As used in this Code section, the term:

(1) "Agricultural facility" includes, but is not limited to, any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment which is used for the commercial production or processing of crops, livestock, animals, poultry, honeybees, honeybee products, livestock products, poultry products, or products which are used in commercial aquaculture. Such term shall also include any farm labor camp or facilities for migrant farm workers.

(2) "Agricultural operation" means:

(A) The plowing, tilling, or preparation of soil at an agricultural facility;

(B) The planting, growing, fertilizing, or harvesting of crops;

(C) The application of pesticides, herbicides, or other chemicals, compounds, or substances to crops, weeds, or soil in connection with the production of crops, livestock, animals, or poultry;

(D) The breeding, hatching, raising, producing, feeding, keeping, slaughtering, or processing of livestock, hogs, equines, chickens, turkeys, poultry or other fowl normally raised for food, mules, cattle, sheep, goats, dogs, rabbits, or similar farm animals for commercial purposes;

(E) The production and keeping of honeybees, the production of honeybee products, and honeybee processing facilities;

(F) The production, processing, or packaging of eggs or egg products;

(G) The manufacturing of feed for poultry or livestock;

(H) The rotation of crops;

(I) Commercial aquaculture;

(J) The application of existing, changed, or new technology, practices, processes, or procedures to any agricultural operation; and

(K) The operation of any roadside market.

(c) No agricultural facility or any agricultural operation at an agricultural facility shall be or shall become a nuisance, either public or private, as a result of changed conditions in or around the locality of such agricultural facility if the agricultural facility has been in operation for one year or more. The provisions of this subsection shall not apply when a nuisance results from the negligent, improper, or illegal operation of any agricultural facility.

(d) For purposes of this Code section, the established date of operation is the date on which an agricultural operation commenced operation. If the physical facilities of the agricultural operation are subsequently expanded or new technology adopted, the established date of operation for each change is not a separately and independently established date of operation and the commencement of the expanded operation does not divest the agricultural operation of a previously established date of operation.