

Title 46 - Agriculture

CHAPTER 45.

NUISANCE SUITS RELATED TO AGRICULTURAL OPERATIONS

SECTION 46-45-10. Legislative findings.

The General Assembly finds that:

- (1) The policy of the State is to conserve, protect, and encourage the development and improvement of its agricultural land and facilities for the production of food and other agricultural products.
- (2) When nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits and as a result (a) agricultural facilities are sometimes forced to cease operations, and (b) many persons are discouraged from making investments in farm improvements or adopting new technology or methods.
- (3) This chapter is enacted to reduce the loss to the State of its agricultural resources by limiting the circumstances under which agricultural facilities and operations may be considered a nuisance.
- (4) The purpose of this chapter is to lessen the loss of farmland caused by common law nuisance actions which arise when nonagricultural land uses expand into agricultural areas. This purpose is justified by the stated social desire of preserving and encouraging agricultural production.

SECTION 46-45-20. "Agricultural facility" and "agricultural operation" defined.

(A) For purposes of this chapter, "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, trees, livestock, animals, poultry, honeybees, honeybee products, livestock products, poultry products, or products which are used in commercial aquaculture.

(B) For purposes of this chapter "agricultural operation" means:

- (1) the plowing, tilling, or preparation of soil at the agricultural facility;
- (2) the planting, growing, fertilizing, or harvesting of crops;
- (3) 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;
- (4) the breeding, hatching, raising, producing, feeding, keeping, slaughtering, or processing of livestock, hogs, aquatic animals, equines, chickens, turkeys, poultry or other fowl normally raised for food, mules, cattle, sheep, goats, rabbits, or similar farm animals for commercial purposes;
- (5) the production and keeping of the honeybees, the production of honeybee products, and honeybee processing facilities;
- (6) the production, processing, or packaging of eggs or egg products;
- (7) the manufacturing of feed for poultry or livestock;
- (8) the rotation of crops;
- (9) commercial aquaculture;

(10) the application of existing, changed, or new technology, practices, processes, or procedures to an agricultural operation;

(11) the operation of a roadside market; and

(12) silviculture.

SECTION 46-45-30. Operations not to be deemed a nuisance due to changed conditions.

No established agricultural facility or any agricultural operation at an established agricultural facility is or may become a nuisance, private or public, by any changed conditions in or about the locality of the facility or operation. This section does not apply whenever a nuisance results from the negligent, improper, or illegal operation of an agricultural facility or operation.

SECTION 46-45-40. Established date of operation.

For the purposes of this chapter, the established date of operation is the date on which an agricultural operation commenced operation. If the physical facilities of the agricultural operation are expanded subsequently 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.

SECTION 46-45-50. Liability for pollution and flooding.

The provisions of Section 46-45-30 do not affect or defeat the right of a person to recover damages for any injuries or damages sustained by him because of pollution of, or change in condition of, the waters of a stream or because of an overflow on his lands.

SECTION 46-45-60. Local ordinances to contrary null and void.

An ordinance of a unit of local government that makes the operation of an agricultural facility or an agricultural operation at an agricultural facility a nuisance or providing for abatement as a nuisance in derogation of this chapter is null and void. The provisions of this section do not apply whenever a nuisance results from the negligent, illegal, or improper operation of an agricultural facility. The provisions of this section do not apply whenever a nuisance results from an agricultural facility or agricultural operation at an agricultural facility located within the corporate limits of a city.