

SHORT TITLE: Corporations; modifying exceptions; nuisances;  
removing protection from nuisance actions; effective date;  
emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1205

By: Laughlin

AS INTRODUCED

An Act relating to corporations; amending 18 O.S.

1991, Section 954, as amended by Section 2, Chapter 61, O.S.L. 1994 (18 O.S. Supp. 1997, Section 954), which relates to farming or ranching business; modifying exceptions; amending 2 O.S. 1991, Section 9-210, as last amended by Section 16, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-210), which relates to duties of owners and operators and nuisances; removing protection from nuisance actions for certain animal feeding operations utilizing liquid animal waste management systems; amending 50 O.S. 1991, Section 1.1, which relates to agriculture and nuisances; removing protection from nuisance actions for certain agricultural activities; providing for an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 18 O.S. 1991, Section 954, as amended by Section 2, Chapter 61, O.S.L. 1994 (18 O.S. Supp. 1997, Section 954), is amended to read as follows:

Section 954. The provisions of ~~this act~~, Section 951 et seq. of this title, shall not apply where a corporation, either domestic or foreign:

1. Engages in research and/or feeding arrangements or operations concerned with the feeding of livestock or poultry, but only to the extent of such research and/or feeding arrangements or such livestock or poultry operations; ~~or~~

2. Engages in operations concerned with the production and raising of livestock or poultry for sale or use as breeding stock and including only directly related operations, such as breeding or feeding livestock or poultry which are not selected or sold as breeding stock; ~~or~~

~~3. Engages in poultry and/or swine operations, including only directly related operations, such as operating hatcheries, facilities for the production of breeding stock, feed mills, processing facilities, and providing supervisory, technical and other assistance to any other persons performing such services on behalf of the corporation; or~~

4. Engages in forestry as defined by Section 1-4 of Title 2 of the Oklahoma Statutes; ~~or~~

~~5.~~ 4. Whose corporate purpose is charitable or eleemosynary; or

~~6.~~ 5. Presently engages in fluid milk processing within the State of Oklahoma or leases to a fluid milk processor so engaged; provided, this exception is limited to such dairy operations as are necessary to meet such processor's needs.

SECTION 2. AMENDATORY 2 O.S. 1991, Section 9-210, as last amended by Section 16, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-210), is amended to read as follows:

Section 9-210. A. In addition to any other requirement of the Oklahoma Concentrated Animal Feeding Operations Act, animal feeding operations owners and operators who are granted an animal feeding operations license shall:

1. Provide adequate veterinarian services for detection, control, and elimination of livestock diseases;

2. Have available for use at all necessary times mechanical means of scraping, cleaning, and grading feed yards premises; and

3. Provide weather resistant aprons adjacent to all permanently affixed feed bunks, water tanks, and feeding devices.

B. 1. Any Except for odors from an animal feeding operation utilizing a liquid animal waste management system, any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, operated in compliance with such standards, and in compliance with the rules promulgated by the State Board of Agriculture, shall be deemed to be prima facie evidence that a nuisance does not exist; provided, no animal feeding operation shall be located or operated in violation of any zoning regulations.

2. Any Except for odors from an animal feeding operation utilizing a liquid animal waste management system, any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, operated in compliance with such standards, and in compliance with rules promulgated by the Board, that is located on land more than three (3) miles outside the incorporated limits of any municipality and which is not located within one (1) mile of ten or more occupied residences shall not be deemed a nuisance unless it is shown by a preponderance of the evidence that the operation endangers the health or safety of others.

SECTION 3. AMENDATORY 50 O.S. 1991, Section 1.1, is amended to read as follows:

Section 1.1 A. As defined in this act:

1. "Agricultural activities" shall include, but not be limited to, the growing or raising of horticultural and viticultural crops, berries, poultry, livestock, grain, mint, hay and dairy products; and

2. "Farmland" shall include, but not be limited to, land devoted primarily to production of livestock or agricultural commodities.

B. ~~Agricultural~~ Except for odors from an animal feeding operation utilizing a liquid animal waste management system, activities conducted on farm or ranch land, if consistent with good agricultural practices and established prior to nearby nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse affect on the public health and safety.

~~If that~~ Except for odors from an animal feeding operation utilizing a liquid animal waste management system, agricultural activity is undertaken in conformity with federal, state and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety.

SECTION 4. This act shall become effective July 1, 1998.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-2148

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