

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 912

By: Sparks and Sweeden of the  
Senate

6 and

7 DeWitt of the House

8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to nuisances; amending 50 O.S. 2001,  
11 Section 1.1, which relates to agricultural  
12 activities; modifying definitions; prohibiting  
13 nuisance action against agricultural activities on  
14 certain lands; providing for established date of  
15 operation of agricultural activities on certain  
16 lands; providing for recovery of certain costs and  
17 fees in specific circumstance in actions for  
18 nuisance; and providing an effective date.

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

20 SECTION 1. AMENDATORY 50 O.S. 2001, Section 1.1, is  
21 amended to read as follows:

22 Section 1.1 A. As ~~defined~~ used in this ~~act~~ section:

23 1. "Agricultural activities" ~~shall include~~ includes, but is not  
24 ~~be~~ limited to, the growing or raising of horticultural and  
viticultural crops, berries, poultry, livestock, aquaculture, grain,  
mint, hay, dairy products and forestry activities. "Agricultural

1 activities" also includes improvements or expansion to the  
2 activities provided for in this paragraph including, but not limited  
3 to, new technology, pens, barns, fences, and other improvements  
4 designed for the sheltering, restriction, or feeding of animal or  
5 aquatic life, for storage of produce or feed, or for storage or  
6 maintenance of implements. If the expansion is part of the same  
7 operating facility, the expansion need not be contiguous;

8 2. "Farmland" ~~shall include~~ includes, but is not ~~be~~ limited to,  
9 land devoted primarily to production of livestock or agricultural  
10 commodities; and

11 3. "Forestry activity" means any activity associated with the  
12 reforesting, growing, managing, protecting and harvesting of timber,  
13 wood and forest products including, but not limited to, forestry  
14 buildings and structures.

15 B. Agricultural activities conducted on farm or ranch land, if  
16 consistent with good agricultural practices and established prior to  
17 nearby nonagricultural activities, are presumed to be reasonable and  
18 do not constitute a nuisance unless the activity has a substantial  
19 adverse affect on the public health and safety.

20 If that agricultural activity is undertaken in conformity with  
21 federal, state and local laws and regulations, it is presumed to be  
22 good agricultural practice and not adversely affecting the public  
23 health and safety.

24

1        C. No action for nuisance shall be brought against agricultural  
2 activities on farm or ranch land which has lawfully been in  
3 operation for two (2) years or more prior to the date of bringing  
4 the action. The established date of operation is the date on which  
5 an agricultural activity on farm or ranch land commenced operation.  
6 If the physical facilities of the agricultural activity or the farm  
7 or ranch are subsequently expanded or new technology adopted, the  
8 established date of operation for each change is not a separately  
9 and independently established date of operation and commencement of  
10 the expanded activity does not divest the farm or ranch of a  
11 previously established date of operation.

12        D. In any action for nuisance in which agricultural activities  
13 are alleged to be nuisance, and which action is found to be  
14 frivolous by the court, the defendant shall recover the aggregate  
15 amount of costs and expenses determined by the court to have been  
16 reasonably incurred in connection with defending the action,  
17 together with a reasonable amount for attorney fees.

18        E. This section does not relieve agricultural activities of the  
19 duty to abide by state and federal laws, including, but not limited  
20 to the Oklahoma Concentrated Animal Feeding Operations Act and the  
21 Oklahoma Registered Poultry Feeding Operations Act.

22        SECTION 2. This act shall become effective November 1, 2009

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24        52-1-7497            SAB            03/26/09

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