

1 ENGROSSED SENATE
2 BILL NO. 912

By: Sparks and Sweeden of the
Senate

3 and

4 DeWitt of the House

5
6
7 [nuisances - agricultural activities -

8 effective date]

9
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

14 1. "Agricultural activities" ~~shall include~~ includes, but is not
15 be limited to, the growing or raising of horticultural and
16 viticultural crops, berries, poultry, livestock, aquaculture, grain,
17 mint, hay, dairy products and forestry activities. "Agricultural
18 activities" also includes improvements or expansion to the
19 activities provided for in this paragraph including, but not limited
20 to, new technology, pens, barns, fences, and other improvements
21 designed for the sheltering, restriction, or feeding of animal or
22 aquatic life, for storage of produce or feed, or for storage or
23 maintenance of implements. If the expansion is part of the same
24 operating facility, the expansion need not be contiguous;

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

4 3. "Forestry activity" means any activity associated with the
5 reforesting, growing, managing, protecting and harvesting of timber,
6 wood and forest products including, but not limited to, forestry
7 buildings and structures.

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

13 If that agricultural activity is undertaken in conformity with
14 federal, state and local laws and regulations, it is presumed to be
15 good agricultural practice and not adversely affecting the public
16 health and safety.

17 C. No action for nuisance shall be brought against agricultural
18 activities on farm or ranch land which has lawfully been in
19 operation for two (2) years or more prior to the date of bringing
20 the action. The established date of operation is the date on which
21 an agricultural activity on farm or ranch land commenced operation.
22 If the physical facilities of the agricultural activity or the farm
23 or ranch are subsequently expanded or new technology adopted, the
24 established date of operation for each change is not a separately

1 and independently established date of operation and commencement of
2 the expanded activity does not divest the farm or ranch of a
3 previously established date of operation.

4 D. In any action for nuisance in which agricultural activities
5 are alleged to be nuisance, and which action is found to be
6 frivolous by the court, the defendant shall recover the aggregate
7 amount of costs and expenses determined by the court to have been
8 reasonably incurred in connection with defending the action,
9 together with a reasonable amount for attorney fees.

10 E. This section does not relieve agricultural activities of the
11 duty to abide by state and federal laws, including, but not limited
12 to the Oklahoma Concentrated Animal Feeding Operations Act and the
13 Oklahoma Registered Poultry Feeding Operations Act.

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

15 Passed the Senate the 9th day of March, 2009.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,

20 2009.

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Presiding Officer of the House
of Representatives

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