

THE HOUSE OF REPRESENTATIVES
Monday, February 9, 2009

House Bill No. 1482

HOUSE BILL NO. 1482 - By: DEWITT of the House.

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

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

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

3 Section 1.1 A. As ~~defined~~ used in this ~~aet~~ section:

4 1. "Agricultural activities" ~~shall include~~ includes, but is not ~~be~~ limited to, the
5 growing or raising of horticultural and viticultural crops, berries, poultry, livestock,
6 aquaculture, grain, mint, hay, dairy products and forestry activities. "Agricultural
7 activities" also includes improvements or expansion to the activities provided for in this
8 paragraph including, but not limited to, new technology, pens, barns, fences, and other
9 improvements designed for the sheltering, restriction, or feeding of animal or aquatic life,
10 for storage of produce or feed, or for storage or maintenance of implements. If the
11 expansion is part of the same operating facility, the expansion need not be contiguous;

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

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

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

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

13 C. No action for nuisance shall be brought against agricultural activities on farm or
14 ranch land which has lawfully been in operation for one (1) year or more prior to the date
15 of bringing the action. The established date of operation is the date on which an
16 agricultural activity on farm or ranch land commenced operation. If the physical
17 facilities of the agricultural operation or the farm or ranch are subsequently expanded or
18 new technology adopted, the established date of operation for each change is not a
19 separately and independently established date of operation and commencement of the
20 expanded operation does not divest the farm or ranch of a previously established date of
21 operation.

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL
8 DEVELOPMENT, dated 02-05-09 - DO PASS.