

CS for EHB 1482

THE STATE SENATE  
Wednesday, March 25, 2009

Committee Substitute for  
ENGROSSED

House Bill No. 1482

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1482 - By: DeWitt,  
Martin (Steve) and Peterson of the House and Justice of the Senate.

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;  
clarifying scope of act; and providing an effective date.

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

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

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

1. "Agricultural activities" ~~shall include~~ includes, but is not  
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  
activities" also includes improvements or expansion to the  
activities provided for in this paragraph including, but not limited  
to, new technology, pens, barns, fences, and other improvements  
designed for the sheltering, restriction, or feeding of animal or

1 aquatic life, for storage of produce or feed, or for storage or  
2 maintenance of implements. If the expansion is part of the same  
3 operating facility, the expansion need not be contiguous;

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

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

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

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

20 C. No action for nuisance shall be brought against agricultural  
21 activities on farm or ranch land which has lawfully been in  
22 operation for two (2) years or more prior to the date of bringing  
23 the action. The established date of operation is the date on which

1 an agricultural activity on farm or ranch land commenced activity.  
2 If the physical facilities of the agricultural activity or the farm  
3 or ranch are subsequently expanded or new technology adopted, the  
4 established date of operation for each change is not a separately  
5 and independently established date of operation and commencement of  
6 the expanded activity does not divest the farm or ranch of a  
7 previously established date of operation.

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

14 E. This section does not relieve agricultural activities of the  
15 duty to abide by state and federal laws, including, but not limited  
16 to, the Oklahoma Concentrated Animal Feeding Operations Act and the  
17 Oklahoma Registered Poultry Feeding Operations Act.

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

19 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,  
20 dated 3-23-09 - DO PASS, As Amended and Coauthored.