

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1482

By: DeWitt

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5
6 AS INTRODUCED

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

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

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

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

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

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

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

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

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

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

21 C. No action for nuisance shall be brought against agricultural
22 activities on farm or ranch land which has lawfully been in
23 operation for one (1) year or more prior to the date of bringing the
24 action. The established date of operation is the date on which an

1 agricultural activity on farm or ranch land commenced operation. If
2 the physical facilities of the agricultural operation or the farm or
3 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 operation 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 SECTION 2. This act shall become effective November 1, 2009.

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16 52-1-5367 MMP 01/04/09

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