

1 ENGROSSED HOUSE  
2 BILL NO. 1388

By: Pfeiffer of the House

3 and

4 Fields of the Senate

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7 An Act relating to nuisances; amending 50 O.S. 2011,  
8 Section 1.1, which relates to agricultural activities  
9 as nuisance; clarifying language; providing  
10 requirements to determine established date of  
11 operation for certain agricultural activities; and  
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 50 O.S. 2011, Section 1.1, is  
15 amended to read as follows:

16 Section 1.1 A. As used in this section:

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

1 the expansion is part of the same operating facility, the expansion  
2 need not be contiguous;

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

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

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

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

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

1 ~~or ranch are subsequently expanded or new technology adopted, the~~  
2 The established date of operation for each change is not a  
3 separately and independently established date of operation and  
4 commencement of the expanded activity does not divest the farm or  
5 ranch of a previously established date of operation if:

6 1. The physical facilities of the farm or ranch are  
7 subsequently expanded or new technology adopted;

8 2. The farming or ranching is interrupted for no more than  
9 three (3) years;

10 3. The farm or ranch participates in a government-sponsored  
11 agricultural program; or

12 4. There is a change in the type of agricultural or forestry  
13 product produced.

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

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

24 SECTION 2. This act shall become effective November 1, 2017.

1 Passed the House of Representatives the 20th day of March, 2017.

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4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2017.

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8 Presiding Officer of the Senate