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April 11, 2017

ENGROSSED HOUSE  
BILL NO. 1388

By: Pfeiffer, Biggs and Sanders  
of the House

and

## Fields of the Senate

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

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

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

Section 1.1 A. As used in this section:

1. "Agricultural activities" includes, but is not 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,

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

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

8 3. "Forestry activity" means any activity associated with the  
9 reforestation, 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~~ effect 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 two (2) years or more prior to the date of bringing  
24 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 The established date of operation for each change is not a

5 separately and independently established date of operation and

6 commencement of the expanded activity does not divest the farm or

7 ranch of a previously established date of operation if:

8 1. The physical facilities of the farm or ranch are

9 subsequently expanded or new technology adopted;

10 2. The farming or ranching is interrupted for no more than

11 three (3) years;

12 3. The farm or ranch participates in a government-sponsored

13 agricultural program; or

14 4. There is a change in the type of agricultural or forestry

15 product produced.

16 D. In any action for nuisance in which agricultural activities

17 are alleged to be a nuisance, and which action is found to be

18 frivolous or malicious by the court, the defendant shall recover the

19 aggregate amount of costs and expenses determined by the court to

20 have been reasonably incurred in connection with defending the

21 action, together with a reasonable ~~amount for~~ attorney fees fee.

22 E. This section does not relieve agricultural activities of the

23 duty to abide by state and federal laws, including, but not limited

1 to, the Oklahoma Concentrated Animal Feeding Operations Act and the  
2 Oklahoma Registered Poultry Feeding Operations Act.

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

4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE  
5 April 11, 2017 - DO PASS  
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