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February 14, 2017

By: Fields of the Senate

and

Pfeiffer of the House

An Act relating to nuisances; amending 50 O.S. 2011, Section 1.1, which relates to agricultural activities as nuisance; creating requirements to maintain the original established date of operation; clarifying statutory language; 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, 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 and 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.

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.

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
February 14, 2017 - DO PASS