

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1388

By: Pfeiffer

6 AS INTRODUCED

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

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

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

7 3. "Forestry activity" means any activity associated with the
8 reforestation, 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~~ effect 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
24 an agricultural activity on farm or ranch land commenced ~~activity~~.

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

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

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

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

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

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

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

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

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