

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2373

By: Kannady

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to nuisances; amending 50 O.S. 2011,
9 Section 1.1, as amended by Section 1, Chapter 276,
10 O.S.L. 2017 (50 O.S. Supp. 2018, Section 1.1), which
11 relates to agricultural activity actions for
12 nuisance; requiring separate determination for
13 noneconomic damages; prescribing limitation for
14 noneconomic damages awarded to plaintiff; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 50 O.S. 2011, Section 1.1, as
18 amended by Section 1, Chapter 276, O.S.L. 2017 (50 O.S. Supp. 2018,
19 Section 1.1), is amended to read as follows:

20 Section 1.1 A. As used in this section:

21 1. "Agricultural activities" includes, but is not limited to,
22 the growing or raising of horticultural and viticultural crops,
23 berries, poultry, livestock, aquaculture, grain, mint, hay, dairy
24 products and forestry activities. "Agricultural activities" also
includes improvements or expansion to the activities provided for in

1 this paragraph including, but not limited to, new technology, pens,
2 barns, fences, and other improvements designed for the sheltering,
3 restriction, or feeding of animal or aquatic life, for storage of
4 produce or feed, or for storage or maintenance of implements. If
5 the expansion is part of the same operating facility, the expansion
6 need not be contiguous;

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

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

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

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

23 C. No action for nuisance shall be brought against agricultural
24 activities on farm or ranch land which has lawfully been in

1 operation for two (2) years or more prior to the date of bringing
2 the action. The established date of operation is the date on which
3 an agricultural activity on farm or ranch land commenced. 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 activity does not divest the farm or ranch of a
7 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; or

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

14 D. In any action for nuisance brought against agricultural
15 activities on farm or ranch land pursuant to this section:

16 1. The court or jury shall determine the amount of noneconomic
17 damages separately from the amount of compensation for all other
18 damages; and

19 2. Noneconomic damages awarded to a plaintiff shall not exceed
20 three times the amount of compensatory damages or Two Hundred Fifty
21 Thousand Dollars (\$250,000.00), whichever amount is greater.

22 E. In any action for nuisance in which agricultural activities
23 are alleged to be a nuisance, and which action is found to be
24 frivolous or malicious by the court, the defendant shall recover the

1 aggregate amount of costs and expenses determined by the court to
2 have been reasonably incurred in connection with defending the
3 action, together with reasonable attorney ~~fee~~ fees.

4 ~~E.~~ F. This section does not relieve agricultural activities of
5 the duty to abide by state and federal laws, including, but not
6 limited to, the Oklahoma Concentrated Animal Feeding Operations Act
7 and the Oklahoma Registered Poultry Feeding Operations Act.

8 SECTION 2. This act shall become effective November 1, 2019.

9

10 57-1-8082 LRB 02/19/19

11

12

13

14

15

16

17

18

19

20

21

22

23

24