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SENATE BILL 194

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO AGRICULTURE; AMENDING A SECTION OF THE RIGHT TO FARM ACT TO PROVIDE THAT AGRICULTURE MAY NOT BE DEEMED A NUISANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 47-9-1 NMSA 1978 (being Laws 1981, Chapter 287, Section 1, as amended) is amended to read:

"47-9-1. SHORT TITLE.-- [~~Sections 47-9-1 through 47-9-7~~] Chapter 47, Article 9 NMSA 1978 may be cited as the "Right to Farm Act"."

SECTION 2. Section 47-9-3 NMSA 1978 (being Laws 1981, Chapter 287, Section 3, as amended) is amended to read:

"47-9-3. AGRICULTURAL OPERATIONS DEEMED NOT A NUISANCE.--

A. Any agricultural operation or agricultural facility is not, nor shall it become, a private or public

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1 nuisance by any changed condition in or about the locality of
2 the agricultural operation or agricultural facility if the
3 operation was not a nuisance at the time the operation began
4 and has been in existence for more than one year [~~except that~~
5 ~~the provisions of this section shall not apply whenever an~~
6 ~~agricultural operation or agricultural facility is operated~~
7 ~~negligently, improperly or illegally such that the operation or~~
8 ~~facility is a nuisance~~].

9 B. Any ordinance or resolution of any unit of local
10 government that makes the operation of any agricultural
11 operation or agricultural facility a nuisance or provides for
12 abatement of it as a nuisance under the circumstances set forth
13 in this section shall not apply when an agricultural operation
14 is located within the corporate limits of any municipality as
15 of [~~the effective date of the Right to Farm Act~~] April 8, 1981.

16 C. The established date of operation is the date on
17 which an agricultural operation commenced or an agricultural
18 facility was originally constructed. If an agricultural
19 operation or agricultural facility is subsequently expanded or
20 a new technology is adopted, the established date of operation
21 does not change."