

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 652

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
AMENDING THE RIGHT TO FARM ACT TO PROVIDE FOR NUISANCE IF THERE  
IS A SUBSTANTIAL ADVERSE IMPACT ON PUBLIC HEALTH AND SAFETY.

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

SECTION 1. 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  
nuisance by any changed condition in or about the locality of  
the agricultural operation or agricultural facility if the  
operation was not a nuisance at the time the operation began  
and has been in existence for more than one year; except that  
the provisions of this section shall not apply whenever an

.193464.1

underscored material = new  
[bracketed material] = delete

1 agricultural operation or agricultural facility [~~is operated~~  
2 ~~negligently, improperly or illegally~~] has a substantial adverse  
3 effect on the public health and safety such that the operation  
4 or facility is a nuisance. Agricultural operations and  
5 agricultural facilities in compliance with federal, state and  
6 local laws are presumed not to adversely affect public health  
7 and safety.

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

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