

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO AGRICULTURE; AMENDING THE RIGHT TO FARM ACT TO PREVENT CERTAIN AGRICULTURAL OPERATIONS OR AGRICULTURAL FACILITIES FROM BEING FOUND TO BE OPERATING NEGLIGENTLY; AMENDING THE RIGHT TO FARM ACT TO CLARIFY THAT OPERATING IN CONFORMITY WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS CREATES A PRESUMPTION OF OPERATING IN A MANNER CONSISTENT WITH GENERALLY ACCEPTED AGRICULTURAL PRACTICES.

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

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

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

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. Any agricultural operation or agricultural
16 facility operating in a manner consistent with generally
17 accepted agricultural practices shall not be found to be
18 operating negligently. Agricultural operations or agricultural
19 facilities operating in conformity with federal, state and
20 local laws and regulations are presumed to be operating in a
21 manner consistent with generally accepted agricultural
22 practices.

23 [~~G.~~] D. The established date of operation is the
24 date on which an agricultural operation commenced or an
25 agricultural facility was originally constructed. If an

.194807.1

underscored material = new
~~[bracketed material] = delete~~

1 agricultural operation or agricultural facility is subsequently
2 expanded or a new technology is adopted, the established date
3 of operation does not change."

4 - 3 -

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25