AN ACT

RELATING TO AGRICULTURE; 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

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

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

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

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underscored material = new
[bracketed material] = delete