

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1823

Session of  
1981

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INTRODUCED BY WENGER, COLE, GRIECO, MADIGAN, PITTS, HONAMAN,  
A. C. FOSTER, JR., WASS, BRANDT, BOWSER, JOHNSON,  
D. R. WRIGHT, MOEHLMANN, E. H. SMITH, LLOYD, KLINGAMAN,  
W. W. FOSTER, MORRIS, FARGO, STAIRS, CALTAGIRONE, GRUPPO,  
JACKSON, SIEMINSKI, MILLER, ARMSTRONG, GREENWOOD, PHILLIPS  
AND FEE, SEPTEMBER 22, 1981

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
DECEMBER 14, 1981

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## AN ACT

1 Protecting agricultural operations from nuisance suits and  
2 ordinances under certain circumstances.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Legislative policy.

6 It is the declared policy of the Commonwealth to conserve and  
7 protect and encourage the development and improvement of its  
8 agricultural land for the production of food and other  
9 agricultural products, INCLUDING ALTERNATE ENERGY PRODUCTION FOR <—  
10 FARM USE. When nonagricultural land uses extend into  
11 agricultural areas, agricultural operations often become the  
12 subject of nuisance suits and ordinances. As a result,  
13 agricultural operations are sometimes forced to cease  
14 operations. Many others are discouraged from making investments  
15 in farm improvements. It is the purpose of this act to reduce

1 the loss to the Commonwealth of its agricultural resources by  
2 limiting the circumstances under which agricultural operations  
3 may be the subject matter of nuisance suits and ordinances.

4 Section 2. Definitions.

5 The following words and phrases when used in this act shall  
6 have, unless the context clearly indicates otherwise, the  
7 meanings given to them in this section:

8 "Municipality." A county, city, borough, incorporated town,  
9 township or a general purpose unit of government as established  
10 by the act of April 13, 1972 (P.L.184, No.62), known as the  
11 "Home Rule Charter and Optional Plans Law."

12 "Normal agricultural operation." The customary and generally  
13 accepted activities, practices and procedures that farmers  
14 adopt, use or engage in year after year in the production,  
15 preparation and processing for market of any and all plant and  
16 animal products and is:

17 (1) not less than ten contiguous acres in area; or

18 (2) less than ten contiguous acres in area but has an  
19 anticipated yearly gross income of at least ~~\$2,000~~ \$5,000. <—

20 Section 3. Limitation on local ordinances.

21 Every municipality shall encourage the continuity,  
22 development and viability of agricultural operations, INCLUDING <—  
23 ALTERNATE ENERGY PRODUCTION FOR FARM USE, within its  
24 jurisdiction. Every municipality that defines or prohibits a  
25 public nuisance shall exclude from the definition of such  
26 nuisance any agricultural operation conducted in accordance with  
27 normal farming operations so long as the agricultural operation  
28 does not have a direct adverse effect on the public health and  
29 safety.

30 Section 4. Limitation on public nuisances.

1 (a) No nuisance action shall be brought against an  
2 agricultural operation which has lawfully been in operation for  
3 one year or more prior to the date of bringing such action,  
4 where the conditions or circumstances complained of as  
5 constituting the basis for the nuisance action have existed  
6 substantially unchanged since the established date of operation  
7 and are normal agricultural operations, or if the physical  
8 facilities of such agricultural operations are substantially  
9 expanded and the expanded facility has been in operation for one  
10 year or more prior to the date of bringing such action:  
11 Provided, however, That nothing herein shall in any way restrict  
12 or impede the authority of this State from protecting the public  
13 health, safety and welfare or the authority of a municipality to  
14 enforce State law.

15 (b) The provisions of this section shall not affect or  
16 defeat the right of any person, firm or corporation to recover  
17 damages for any injuries or damages sustained by them on account  
18 of any agricultural operation or any portion of an agricultural  
19 operation which is conducted in violation of any Federal, State  
20 or local statute or governmental regulation which applies to  
21 that agricultural operation or portion thereof.

22 Section 5. Water damages.

23 The provisions of section 4 shall not affect or defeat the  
24 right of any person, firm or corporation to recover damages for  
25 any injuries or damages sustained by him or it on account of any  
26 pollution of, or change in condition of, the waters of any  
27 stream or on account of any flooding of lands to any such  
28 person, firm or corporation.

29 Section 6. Saving clause.

30 This act shall not be construed to invalidate any contract

1 made prior to its effective date nor shall it be construed to  
2 apply to any suit brought prior to its effective date.

3 Section 7. Severability.

4 If any provision of this act or the application thereof to  
5 any person or circumstances is held invalid, such invalidity  
6 shall not affect other provisions or applications of the act  
7 which can be given effect without the invalid provision or  
8 application, and to this end the provisions of this act are  
9 declared to be severable.

10 Section 8. Effective date.

11 This act shall take effect in 60 days.