
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2824 Session of
2002

INTRODUCED BY ROBERTS, BENNINGHOFF, CREIGHTON, HORSEY, SHANER
AND SOLOBAY, SEPTEMBER 3, 2002

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
SEPTEMBER 3, 2002

AN ACT

1 Amending the act of June 10, 1982 (P.L.454, No.133), entitled
2 "An act protecting agricultural operations from nuisance
3 suits and ordinances under certain circumstances," further
4 providing for limitation on local ordinances.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 3 of the act of June 10, 1982 (P.L.454,
8 No.133), entitled "An act protecting agricultural operations
9 from nuisance suits and ordinances under certain circumstances,"
10 amended March 19, 1992 (P.L.17, No.6), is amended to read:

11 Section 3. Limitation on local ordinances.

12 (a) Every municipality shall encourage the continuity,
13 development and viability of agricultural operations within its
14 jurisdiction. Every municipality that defines or prohibits a
15 public nuisance shall exclude from the definition of such
16 nuisance any agricultural operation conducted in accordance with
17 normal agricultural operations so long as the agricultural
18 operation does not have a direct adverse effect on the public

1 health and safety.

2 (b) Direct commercial sales of agricultural commodities upon
3 property owned and operated by a landowner who produces not less
4 than 50% of the commodities sold shall be authorized,
5 notwithstanding municipal ordinance, public nuisance or zoning
6 prohibitions. Such direct sales shall be authorized without
7 regard to the 50% limitation under circumstances of crop failure
8 due to reasons beyond the control of the landowner.

9 (c) No municipality shall adopt or enact a frivolous
10 ordinance that would prohibit, restrict or regulate an
11 agricultural operation. For purposes of this subsection, a
12 frivolous ordinance is an ordinance that attempts to regulate:

13 (1) the type of business enterprise that may own or
14 conduct an agricultural operation;

15 (2) agricultural operations Statewide or beyond the
16 territorial boundaries of the municipality; or

17 (3) a matter that is clearly preempted by the laws of
18 this Commonwealth.

19 An aggrieved party shall be entitled to recover reasonable costs
20 and attorney fees from a municipality that has adopted or
21 enacted a frivolous ordinance, whether or not the municipality
22 has acted in bad faith.

23 Section 2. This act shall take effect immediately.