

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1413 Session of
2002

INTRODUCED BY MADIGAN, WENGER, O'PAKE, THOMPSON, HELFRICK,
COSTA, KITCHEN, MURPHY, GERLACH, LOGAN, WOZNIAK, CORMAN,
ROBBINS, ARMSTRONG, RHOADES, D. WHITE, PUNT, KASUNIC, MUSTO,
STOUT, M. WHITE AND LEMMOND, APRIL 17, 2002

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, APRIL 17, 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) (1) No municipality shall adopt any ordinance or
10 implement any policy that is contrary to this act and its
11 purposes or any other laws of this Commonwealth. Local
12 regulation shall be consistent with this act and shall not
13 unfairly discriminate against agricultural operations.

14 (2) Any person aggrieved by a violation of this
15 subsection may institute an action in a court of proper
16 jurisdiction to invalidate any ordinance or policy in
17 violation of this subsection.

18 (3) If the court determines that a municipality
19 willfully or with wanton disregard violated a provision of
20 this act, in whole or in part, the court may award the
21 prevailing party reasonable attorney fees and costs of
22 litigation or an appropriate portion of the fees and costs.
23 If the court finds that the legal action was of a frivolous
24 nature or was brought with no substantial justification, the
25 court may award the prevailing party reasonable attorney fees
26 and costs of litigation or an appropriate portion of the fees
27 and costs.

28 Section 2. This act shall take effect immediately.