

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1794

Session of  
1979

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INTRODUCED BY MESSRS. THOMAS, YAHNER, WENGER, DeVERTER, A. C.  
FOSTER, MRS. HONAMAN, MESSRS. CALTAGIRONE, BROWN, PITTS,  
ZELLER, W. W. FOSTER, D. R. WRIGHT, BOWSER, STUBAN, WASS,  
MADIGAN AND WILT, OCTOBER 2, 1979

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
FEBRUARY 11, 1980

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## AN ACT

1 To protect agricultural operations from nuisance suits under  
2 certain circumstances.

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

5 Section 1. It is the declared policy of the Commonwealth to  
6 conserve and protect and encourage the development and  
7 improvement of its agricultural land for the production of food  
8 and other agricultural products. When nonagricultural land uses  
9 extend into agricultural areas, agricultural operations often  
10 become the subject of nuisance suits. As a result, agricultural  
11 operations are sometimes forced to cease operations. Many others  
12 are discouraged from making investments in farm improvements. It  
13 is the purpose of this act to reduce the loss to the  
14 Commonwealth of its agricultural resources by limiting the  
15 circumstances under which agricultural operations may be deemed  
16 to be a nuisance.

1       SECTION 2. AS USED IN THIS ACT, "AGRICULTURAL OPERATION"       <—  
2 MEANS ANY AGRICULTURAL ENDEAVOR THAT USES LAND FOR THE  
3 PRODUCTION OF ANY AND ALL PLANT AND ANIMAL PRODUCTS WHICH ARE  
4 PRODUCED PRIMARILY FOR COMMERCIAL PURPOSES, WHERE SUCH LAND:  
5           (1) IS NOT LESS THAN TEN CONTIGUOUS ACRES IN AREA; OR  
6           (2) IS LESS THAN TEN CONTIGUOUS ACRES IN AREA BUT HAS AN  
7 ANTICIPATED YEARLY GROSS INCOME OF AT LEAST \$2,000.

8       Section ~~2-~~ 3. No agricultural operation of any of its       <—  
9 appurtenances shall be or become a nuisance, private or public,  
10 by any changed conditions in or about the municipality thereof  
11 after the same has been in operation for more than one year,  
12 when such operation was not a nuisance at the time the operation  
13 began: Provided, however, That the provisions of this section  
14 shall not apply whenever a nuisance results from the negligent  
15 or improper operation of any such agricultural operation or its  
16 appurtenances.

17       Section ~~3-~~ 4. The provisions of section ~~2~~ 3 shall not affect       <—  
18 or defeat the right of any person, firm or corporation to  
19 recover damages for any injuries or damages sustained by him or  
20 it on account of any pollution of, or change in condition of,  
21 the waters of any stream or on the account of any overflow of  
22 lands to any such person, firm or corporation.

23       Section ~~4-~~ 5. Any and all ordinances or resolutions of any       <—  
24 political subdivision now in effect or hereafter adopted that  
25 would make the operation of any such agricultural operation or  
26 its appurtenances a nuisance or providing for abatement thereof  
27 as a nuisance in the circumstance set forth in this act are and  
28 shall be null and void: Provided, however, That the provisions  
29 of this section shall not apply whenever a nuisance results from  
30 the negligent or improper operation of any such agricultural

1 operation or any of its appurtenances.

2       Section ~~5-~~ 6. This act shall take effect immediately but       <—  
3 shall not be construed to invalidate any contracts made prior to  
4 the effective date hereof and shall not be construed to apply to  
5 any civil actions in which a complaint has been filed prior to  
6 the effective date hereof.