
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1823

Session of
1981

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

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 3, 1982

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 AND <—
15 preparation and processing for market of any and all plant and <—
16 animal products and is: FOR MARKET OF POULTRY, LIVESTOCK AND <—
17 THEIR PRODUCTS AND IN THE PRODUCTION AND HARVESTING OF
18 AGRICULTURAL, AGRONOMIC, HORTICULTURAL, SILVICULTURAL AND
19 AQUICULTURAL CROPS AND COMMODITIES AND IS:

- 20 (1) not less than ten contiguous acres in area; or
21 (2) less than ten contiguous acres in area but has an
22 anticipated yearly gross income of at least ~~\$5,000~~ \$10,000. <—

23 Section 3. Limitation on local ordinances.

24 ~~(A)~~ Every municipality shall encourage the continuity, <—
25 development and viability of agricultural operations, ~~including~~ <—
26 ~~alternate energy production for farm use,~~ within its
27 jurisdiction. Every municipality that defines or prohibits a
28 public nuisance shall exclude from the definition of such
29 nuisance any agricultural operation conducted in accordance with
30 normal ~~farming~~ AGRICULTURAL operations so long as the <—

1 agricultural operation does not have a direct adverse effect on
2 the public health and safety.

3 ~~(B) THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT OR~~ <—
4 ~~DEFEAT THE INTENT OF ANY FEDERAL, STATE OR LOCAL STATUTE OR~~
5 ~~GOVERNMENTAL REGULATION EXCEPT NUISANCE ORDINANCES AS THEY APPLY~~
6 ~~TO ANY NORMAL AGRICULTURAL OPERATION OR PORTION THEREOF.~~

7 Section 4. Limitation on public nuisances.

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

23 (b) The provisions of this section shall not affect or
24 defeat the right of any person, firm or corporation to recover
25 damages for any injuries or damages sustained by them on account
26 of any agricultural operation or any portion of an agricultural
27 operation which is conducted in violation of any Federal, State
28 or local statute or governmental regulation which applies to
29 that agricultural operation or portion thereof.

30 Section 5. Water damages.

1 The provisions of section 4 shall not affect or defeat the
2 right of any person, firm or corporation to recover damages for
3 any injuries or damages sustained by him or it on account of any
4 pollution of, or change in condition of, the waters of any
5 stream or on account of any flooding of lands to any such
6 person, firm or corporation.

7 Section 6. Saving clause.

8 (A) This act shall not be construed to invalidate any <—
9 contract made prior to its effective date nor shall it be
10 construed to apply to any suit brought prior to its effective
11 date.

12 (B) THE PROVISIONS OF THIS ACT SHALL NOT AFFECT OR DEFEAT <—
13 THE INTENT OF ANY FEDERAL, STATE OR LOCAL STATUTE OR
14 GOVERNMENTAL REGULATION EXCEPT NUISANCE ORDINANCES AS THEY APPLY
15 TO ANY NORMAL AGRICULTURAL OPERATION.

16 Section 7. Severability.

17 If any provision of this act or the application thereof to
18 any person or circumstances is held invalid, such invalidity
19 shall not affect other provisions or applications of the act
20 which can be given effect without the invalid provision or
21 application, and to this end the provisions of this act are
22 declared to be severable.

23 Section 8. Effective date.

24 This act shall take effect in 60 days.