

# An Act

ENROLLED HOUSE  
BILL NO. 2373

By: McBride of the House

and

Daniels of the Senate

An Act relating to nuisances; amending 50 O.S. 2011, Section 1.1, as amended by Section 1, Chapter 276, O.S.L. 2017 (50 O.S. Supp. 2018, Section 1.1), which relates to agricultural activity actions for nuisance; requiring separate determination for noneconomic damages; prescribing limitation for noneconomic damages awarded to plaintiff; and providing an effective date.

SUBJECT: Nuisances

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 50 O.S. 2011, Section 1.1, as amended by Section 1, Chapter 276, O.S.L. 2017 (50 O.S. Supp. 2018, Section 1.1), is amended to read as follows:

Section 1.1 A. As used in this section:

1. "Agricultural activities" includes, but is not limited to, the growing or raising of horticultural and viticultural crops, berries, poultry, livestock, aquaculture, grain, mint, hay, dairy products and forestry activities. "Agricultural activities" also includes improvements or expansion to the activities provided for in this paragraph including, but not limited to, new technology, pens, barns, fences, and other improvements designed for the sheltering, restriction, or feeding of animal or aquatic life, for storage of produce or feed, or for storage or maintenance of implements. If the expansion is part of the same operating facility, the expansion need not be contiguous;

2. "Farmland" includes, but is not limited to, land devoted primarily to production of livestock or agricultural commodities; and

3. "Forestry activity" means any activity associated with the reforestation, growing, managing, protecting and harvesting of timber, wood and forest products including, but not limited to, forestry buildings and structures.

B. Agricultural activities conducted on farm or ranch land, if consistent with good agricultural practices and established prior to nearby nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

If that agricultural activity is undertaken in conformity with federal, state and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety.

C. No action for nuisance shall be brought against agricultural activities on farm or ranch land which has lawfully been in operation for two (2) years or more prior to the date of bringing the action. The established date of operation is the date on which an agricultural activity on farm or ranch land commenced. The established date of operation for each change is not a separately and independently established date of operation and commencement of the expanded activity does not divest the farm or ranch of a previously established date of operation if:

1. The physical facilities of the farm or ranch are subsequently expanded or new technology adopted;

2. The farming or ranching is interrupted for no more than three (3) years; or

3. The farm or ranch participates in a government-sponsored agricultural program.

D. In any action for nuisance brought against agricultural activities on farm or ranch land pursuant to this section:

1. The court or jury shall determine the amount of noneconomic damages separately from the amount of compensation for all other damages; and

2. Noneconomic damages awarded to a plaintiff shall not exceed three times the amount of compensatory damages or Two Hundred Fifty Thousand Dollars (\$250,000.00), whichever amount is greater.

E. In any action for nuisance in which agricultural activities are alleged to be a nuisance, and which action is found to be frivolous or malicious by the court, the defendant shall recover the aggregate amount of costs and expenses determined by the court to have been reasonably incurred in connection with defending the action, together with reasonable attorney ~~fee~~ fees.

~~E.~~ F. This section does not relieve agricultural activities of the duty to abide by state and federal laws, including, but not limited to, the Oklahoma Concentrated Animal Feeding Operations Act and the Oklahoma Registered Poultry Feeding Operations Act.

SECTION 2. This act shall become effective November 1, 2019.

Passed the House of Representatives the 26th day of February, 2019.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 28th day of March, 2019.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_