

1 **SENATE FLOOR VERSION**

2 March 19, 2019

3 ENGROSSED HOUSE
4 BILL NO. 2373

By: McBride of the House

5 and

6 Daniels of the Senate

7
8 An Act relating to nuisances; amending 50 O.S. 2011,
9 Section 1.1, as amended by Section 1, Chapter 276,
10 O.S.L. 2017 (50 O.S. Supp. 2018, Section 1.1), which
11 relates to agricultural activity actions for
12 nuisance; requiring separate determination for
13 noneconomic damages; prescribing limitation for
14 noneconomic damages awarded to plaintiff; and
15 providing an effective date.

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

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

20 Section 1.1 A. As used in this section:

21 1. "Agricultural activities" includes, but is not limited to,
22 the growing or raising of horticultural and viticultural crops,
23 berries, poultry, livestock, aquaculture, grain, mint, hay, dairy
24 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,

1 barns, fences, and other improvements designed for the sheltering,
2 restriction, or feeding of animal or aquatic life, for storage of
3 produce or feed, or for storage or maintenance of implements. If
4 the expansion is part of the same operating facility, the expansion
5 need not be contiguous;

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

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

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

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

22 C. No action for nuisance shall be brought against agricultural
23 activities on farm or ranch land which has lawfully been in
24 operation for two (2) years or more prior to the date of bringing

1 the action. The established date of operation is the date on which
2 an agricultural activity on farm or ranch land commenced. The
3 established date of operation for each change is not a separately
4 and independently established date of operation and commencement of
5 the expanded activity does not divest the farm or ranch of a
6 previously established date of operation if:

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

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

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

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

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

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

21 E. In any action for nuisance in which agricultural activities
22 are alleged to be a nuisance, and which action is found to be
23 frivolous or malicious by the court, the defendant shall recover the
24 aggregate amount of costs and expenses determined by the court to

1 have been reasonably incurred in connection with defending the
2 action, together with reasonable attorney ~~fee~~ fees.

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
9 March 19, 2019 - DO PASS

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