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## **States' Right-To-Farm Statutes**

**State of Arkansas**

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## States' Right-to-Farm Statutes

### STATE OF ARKANSAS

Ark. Code Ann. §§ 2-4-101 to 2-4-108

*Current through end of 2010 Fiscal Sess., including changes made by Ark. Code Rev. Comm. received through 4/26/10.*

#### **§ 2-4-101. Purpose**

It is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural and forest lands and other facilities for the production of food, fiber, and other agricultural and silvicultural products. When nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations. Many are discouraged from making investments in farm or other agricultural improvements. It is the purpose of this chapter to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.

#### **§ 2-4-102. Definition**

As used in this chapter:

(1) "Agricultural operation" or "farming operation" means an agricultural, silvicultural, or aquacultural facility or pursuit conducted, in whole or in part, including:

- (A) The care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses;
- (B) The planting, cultivating, harvesting, and processing of crops and timber; and
- (C) The production of any plant or animal species in a controlled freshwater or saltwater environment; and

(2) "Agriculture" includes agriculture, silviculture, and aquaculture.

#### **§ 2-4-103. Contracts and agreements; applicability**

This chapter shall not be construed to invalidate any contracts heretofore made, but insofar as contracts are concerned shall be applicable only with respect to contracts and agreements made subsequent to March 3, 1981.

#### **§ 2-4-105. Local ordinances void**

Any and all ordinances adopted by any municipality or county in which an agricultural operation is located making or having the effect of making the agricultural operation or any agricultural

facility or its appurtenances a nuisance or providing for an abatement of the agricultural operation or the agricultural facility or its appurtenances as a nuisance in the circumstances set forth in this chapter are void and shall have no force or effect.

#### **§ 2-4-106. Proceedings for injuries**

The provisions of this chapter shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by them on account of any pollution of or change in the condition of the waters of any stream or on account of any overflow of the lands of any person, firm, or corporation.

#### **§ 2-4-107. Operation not to become nuisance**

(a) An agricultural operation or its facilities or appurtenances shall not be or become a public or private nuisance as a result of any changed conditions in and about the locality after it has been in operation for a period of one (1) year or more when the agricultural operation or its facilities or appurtenances were not a nuisance at the time the agricultural operation began.

(b)(1) Except as provided in this section, an agricultural operation shall not be found to be a public or private nuisance if the agricultural operation alleged to be a nuisance employs methods or practices that are commonly or reasonably associated with agricultural production.

(2) An agricultural operation that employs methods or practices that are commonly or reasonably associated with agricultural production shall not be found to be a public or private nuisance as a result of any of the following activities or conditions:

- (A) Change in ownership or size;
- (B) Nonpermanent cessation or interruption of farming;
- (C) Participation in any government-sponsored agricultural program;
- (D) Employment of new technology; or
- (E) Change in the type of agricultural product produced.

(c)(1) Notwithstanding any other provision of this section to the contrary, an agricultural operation shall not be found to be a public or private nuisance if the agricultural operation:

- (A) Was established prior to the commencement of the use of the area surrounding the agricultural operation for nonagricultural activities; and
- (B) Employs methods or practices that are commonly or reasonably associated with agricultural production.

(2) Employment of methods or practices that are commonly or reasonably associated with agricultural production or are in compliance with any state or federally issued permit shall create a rebuttable presumption that an agricultural operation is not a nuisance.

(d) The court may award expert fees, reasonable court costs, and reasonable attorney's fees to the prevailing party in any action brought to assert that an agricultural operation is a public or private nuisance.

#### **§ 2-4-108. Liberal construction**

This chapter is remedial in nature and shall be liberally construed to effectuate its purposes.