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States' Right-To-Farm Statutes

State of Tennessee

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STATE OF TENNESSEE

Tenn. Code Ann. §§ 43-26-101 to 43-26-104

Current through end of 2010 First Ex. Sess. and with laws from 2010 Reg. Sess., eff. through April 14, 2010

§ 43-26-101. Short title

This chapter shall be known and may be cited as the "Tennessee Right to Farm Act."

§ 43-26-102. Definitions

As used in this chapter, unless the context otherwise requires:

- (1) "Farm" means the land, buildings, and machinery used in the commercial production of farm products and nursery stock as defined in § 70-8-303;
- (2) "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of farm products or nursery stock as defined in § 70-8-303, and includes, but is not limited to: marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor; and
- (3) "Farm product" means those plants and animals useful to man and includes, but is not limited to, forages and sod crops; grains and feed crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing; fruits; vegetables; flowers; seeds; grasses; trees; fish; apiaries; equine and other similar products; or any other product that incorporates the use of food, feed, fiber or fur.

§ 43-26-103. Nuisance

(a) It is a rebuttable presumption that a farm or farm operation, except a new type of farming operation as described in subsection (b), is not a public or private nuisance. The presumption created by this subsection (a) may be overcome only if the person claiming a public or private nuisance establishes by preponderance of the evidence that either:

- (1) The farm operation, based on expert testimony, does not conform to generally accepted agricultural practices; or
- (2) The farm or farm operation alleged to cause the nuisance does not comply with any applicable statute or regulation, including without limitation statutes and regulations administered by the department of agriculture or the department of environment and conservation.

(b) With regard to the initiation of a new type of farming operation, there is a rebuttable presumption that the new type of farm operation is not a public or private nuisance, if the new type of farming operation exists for one (1) year or more on the land that is the subject of an action for nuisance before the action is initiated. The presumption created by this subsection

(b) may be overcome only if the person claiming a public or private nuisance establishes by a preponderance of the evidence that either:

- (1) The new type of farm operation, based on expert testimony, does not conform to generally accepted agricultural practices; or
- (2) The new type of farm operation alleged to cause the nuisance does not comply with any applicable statute or regulation, including without limitation statutes and regulations administered by the department of agriculture or the department of environment and conservation.

(c) As used in this section, "new type of farming operation" means a farm operation that is materially different in character and nature from previous farming operations and that is initiated subsequent to the date that the person alleging nuisance became the owner or lessee of the land, the use or enjoyment of which is alleged to be affected by the farming operation; "new type of farming operation" does not include the expansion or addition of facilities for a type of farming operation that existed on the land that is the subject of an action for nuisance prior to the date that the person alleging nuisance became the owner or lessee of the land, the use or enjoyment of which is alleged to be affected by the farming operation.

(d) Nothing in this section shall be construed as limiting the ability of the trier of fact to determine whether a particular farming activity is either a new type of farming operation as defined in this section, or is an expansion of or addition to an existing type of farming operation.

§ 43-26-104. Applicability of chapter

This chapter does not affect any rights or duties that exist or mature under title 44, chapter 18.