



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

States' Right-To-Farm Statutes

State of New Mexico

www.NationalAgLawCenter.org



States' Right-to-Farm Statutes

STATE OF NEW MEXICO

N.M. Stat. Ann. §§ 47-9-1 to 47-9-7

Current through the end of the Second Regular Session of the 52nd Legislature (2016).

§ 47-9-1. Short title

Sections 47-9-1 through 47-9-7 NMSA 1978 may be cited as the "Right to Farm Act".

§ 47-9-2. Purpose of act

The purpose of the Right to Farm Act is to conserve, protect, encourage, develop and improve agricultural land for the production of agricultural products and to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed a nuisance.

§ 47-9-3. Agricultural operations deemed not a nuisance

A. Any agricultural operation or agricultural facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the agricultural operation or agricultural facility if the operation was not a nuisance at the time the operation began and has been in existence for more than one year; except that the provisions of this section shall not apply whenever an agricultural operation or agricultural facility is operated negligently or illegally such that the operation or facility is a nuisance.

B. Any ordinance or resolution of any unit of local government that makes the operation of any agricultural operation or agricultural facility a nuisance or provides for abatement of it as a nuisance under the circumstances set forth in this section shall not apply when an agricultural operation is located within the corporate limits of any municipality as of April 8, 1981.

C. The established date of operation is the date on which an agricultural operation commenced or an agricultural facility was originally constructed. If an agricultural operation or agricultural facility is subsequently expanded or a new technology is adopted, the established date of operation does not change.

D. No cause of action based upon nuisance may be brought by a person whose claim arose following the purchase, lease, rental, or occupancy of property proximate to a previously established agricultural operation or agricultural facility, except when such previously established agricultural operation or agricultural facility has substantially changed in the nature and scope of its operations.

§ 47-9-4. Contracts; agreements

The Right to Farm Act shall not invalidate any contracts made prior to the enactment of that act but shall be applicable only to contracts and agreements after the effective date of that act. This section shall not be construed to invalidate or supercede land uses and related powers of counties and municipalities.

§ 47-9-5. Definitions

As used in the Right To Farm Act:

A. "agricultural facility" includes but is not limited to any land, building, structure, pond, impoundment, appurtenance, machinery or equipment that is used for the commercial production or processing of crops, livestock, animals, poultry, honey bees, honey bee products, livestock products, poultry products or products that are used in commercial agriculture;

B. "agricultural operation" means:

- (1) the plowing, tilling or preparation of soil at an agricultural facility;
- (2) the planting, growing, fertilizing or harvesting of crops;
- (3) the application of pesticides, herbicides, or other chemicals, compounds or substances to crops, weeds or soil in the connection with production of crops, livestock, animals or poultry;
- (4) the breeding, hatching, raising, producing, feeding, keeping, slaughtering or processing of livestock, hogs, aquatic animals, equines, chickens, turkeys, poultry or other fowl normally raised for food, mules, cattle, sheep, goats, rabbits or similar farm animals for commercial purposes;
- (5) the production and keeping of honey bees, production of honey bee products and honey bee processing facilities;
- (6) the production, processing or packaging of eggs or egg products;
- (7) the manufacturing of feed for poultry or livestock;
- (8) the rotation of crops;
- (9) commercial agriculture;
- (10) the application of existing, changed or new technology, practices, processes or products to an agricultural operation; or

(11) the operation of a roadside market.

§ 47-9-6. Damages

The provisions of the Right to Farm Act do not affect or defeat the right of a person to recover damages from injuries or damages sustained by him because of the pollution of, or change in the condition of, waters of a stream or because of an overflow on his lands.

§ 47-9-7. Frivolous lawsuits

If a court determines that any action alleging that an agricultural operation is a nuisance is frivolous, the court may award reasonable costs and attorneys' fees to the defendant.