



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

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

**State of Oregon**

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## States' Right-to-Farm Statutes

### STATE OF OREGON

Or. Rev. Stat. §§ 30.930 to 30.947

*Current with 2016 Reg. Sess. legislation eff. through 7/1/16.*

#### **30.930. Definitions**

As used in ORS 30.930 to 30.947:

- (1) "Farm" means any facility, including the land, buildings, watercourses and appurtenances thereto, used in the commercial production of crops, nursery stock, livestock, poultry, livestock products, poultry products, vermiculture products or the propagation and raising of nursery stock.
- (2) "Farming practice" means a mode of operation on a farm that:
  - (a) Is or may be used on a farm of a similar nature;
  - (b) Is a generally accepted, reasonable and prudent method for the operation of the farm to obtain a profit in money;
  - (c) Is or may become a generally accepted, reasonable and prudent method in conjunction with farm use;
  - (d) Complies with applicable laws; and
  - (e) Is done in a reasonable and prudent manner.
- (3) "Forestland" means land that is used for the growing and harvesting of forest tree species.
- (4) "Forest practice" means a mode of operation on forestland that:
  - (a) Is or may be used on forestland of similar nature;
  - (b) Is a generally accepted, reasonable and prudent method of complying with ORS 527.610 to 527.770 and the rules adopted pursuant thereto;
  - (c) Is or may become a generally accepted, reasonable and prudent method in conjunction with forestland;
  - (d) Complies with applicable laws;
  - (e) Is done in a reasonable and prudent manner; and
  - (f) May include, but is not limited to, site preparation, timber harvest, slash disposal, road construction and maintenance, tree planting, precommercial thinning, release, fertilization, animal damage control and insect and disease control.

(5) "Pesticide" has the meaning given that term in ORS 634.006.

### **30.931. Transport or movement of equipment, device, vehicle or livestock as farming or forest practice**

Notwithstanding ORS 30.930, if the activities are conducted in a reasonable and prudent manner, the transport or movement of any equipment, device or vehicle used in conjunction with a farming practice or a forest practice on a public road or movement of livestock on a public road is a farming or forest practice under ORS 30.930 to 30.947.

### **30.932. "Nuisance" or "trespass" defined**

As used in ORS 30.930 to 30.947, "nuisance" or "trespass" includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides and use of crop production substances.

### **30.933. Legislative findings; policy**

(1) The Legislative Assembly finds that:

(a) Farming and forest practices are critical to the economic welfare of this state.

(b) The expansion of residential and urban uses on and near lands zoned or used for agriculture or production of forest products may give rise to conflicts between resource and nonresource activities.

(c) In the interest of the continued welfare of the state, farming and forest practices must be protected from legal actions that may be intended to limit, or have the effect of limiting, farming and forest practices.

(2) The Legislative Assembly declares that it is the policy of this state that:

(a) Farming practices on lands zoned for farm use must be protected.

(b) Forest practices on lands zoned for the production of forest products must be protected.

(c) Persons who locate on or near an area zoned for farm or forest use must accept the conditions commonly associated with living in that particular setting.

(d) Certain private rights of action and the authority of local governments and special districts to declare farming and forest practices to be nuisances or trespass must be limited because such claims for relief and local government ordinances are inconsistent with land use policies, including policies set forth in ORS 215.243, and have adverse effects on the continuation of farming and forest practices and the full use of the resource base of this state.

### **30.934. Local laws that make forest practice a nuisance or trespass; exceptions**

(1) Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a forest practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

(2) Subsection (1) of this section does not apply to:

(a) City rules, regulations or ordinances adopted in accordance with ORS 527.722; or

(b) Any forest practice conducted in violation of a solar energy easement that complies with ORS 105.880 to 105.890.

### **30.935. Local laws that make farm practice a nuisance or trespass**

Any local government or special district ordinance or regulation now in effect or subsequently adopted that makes a farm practice a nuisance or trespass or provides for its abatement as a nuisance or trespass is invalid with respect to that farm practice for which no action or claim is allowed under ORS 30.936 or 30.937.

### **30.936. Immunity from private action based on farming or forest practice on certain lands; exceptions**

(1) No farming or forest practice on lands zoned for farm or forest use shall give rise to any private right of action or claim for relief based on nuisance or trespass.

(2) Subsection (1) of this section shall not apply to a right of action or claim for relief for:

(a) Damage to commercial agricultural products; or

(b) Death or serious physical injury as defined in ORS 161.015.

(3) Subsection (1) of this section applies regardless of whether the farming or forest practice has undergone any change or interruption.

### **30.937. Immunity from private action based on farming or forest practice allowed as preexisting nonconforming use; exceptions**

(1) No farming or forest practice allowed as a preexisting nonconforming use shall give rise to any private right of action or claim for relief based on nuisance or trespass.

(2) Subsection (1) of this section shall not apply to a right of action or claim for relief for:

- (a) Damage to commercial agricultural products; or
- (b) Death or serious physical injury as defined in ORS 161.015.

(3) Subsection (1) of this section applies only where a farming or forest practice existed before the conflicting nonfarm or nonforest use of real property that gave rise to the right of action or claim for relief.

(4) Subsection (1) of this section applies only where a farming or forest practice has not significantly increased in size or intensity from November 4, 1993, or the date on which the applicable urban growth boundary is changed to include the subject farming or forest practice within its limits, whichever is later.

### **30.938. Attorney fees and costs**

In any action or claim for relief alleging nuisance or trespass and arising from a practice that is alleged by either party to be a farming or forest practice, the prevailing party shall be entitled to judgment for reasonable attorney fees and costs incurred at trial and on appeal.

### **30.939. Pesticide uses considered farming or forest practice**

(1) Notwithstanding ORS 30.930 (2), the use of a pesticide shall be considered to be a farming practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:

- (a) Is or may be used on a farm of a similar nature;
- (b) Is a reasonable and prudent method for the operation of the farm to obtain a profit in money;
- (c) Is or may become customarily utilized in conjunction with farm use;
- (d) Complies with applicable laws; and
- (e) Is done in a reasonable and prudent manner.

(2) Notwithstanding ORS 30.930 (4), the use of a pesticide shall be considered to be a forest practice for purposes of ORS 30.930 to 30.947, if the use of the pesticide:

- (a) Is or may be used on forestland of a similar nature;
- (b) Is a reasonable and prudent method of complying with ORS 527.610 to 527.770;
- (c) Is or may become customarily utilized in conjunction with forestland;
- (d) Complies with applicable laws;

(e) Is done in a reasonable and prudent manner; and

(f) Includes, but is not limited to, site preparation, timber harvest, slash disposal, road construction and maintenance, tree planting, precommercial thinning, release, fertilization, animal damage control and insect and disease control.

### **30.940. Other remedies**

The provisions of ORS 30.930 to 30.947 shall not impair the right of any person or governmental body to pursue any remedy authorized by law that concerns matters other than a nuisance or trespass.

### **30.942. Rules**

(1) The State Department of Agriculture may adopt rules to implement the provisions of ORS 30.930 to 30.947.

(2) The State Forestry Department may adopt rules to implement the provisions of ORS 30.930 to 30.947.

### **30.943. Investigation of complaints based on farming or forest practice**

The Department of Environmental Quality, Department of State Lands, State Department of Agriculture or State Forestry Department is not required to investigate complaints if the agency has reason to believe that the complaint is based on practices protected by ORS 30.930 or 30.947.

### **30.947. Siting of destination resorts or other nonfarm or nonforest uses**

The fact that a comprehensive plan and implementing ordinances allow the siting of destination resorts or other nonfarm or nonforest uses as provided in ORS 30.947, 197.435 to 197.467, 215.213, 215.283 and 215.284, does not in any way affect the provisions of ORS 30.930 to 30.947.