



# The National Agricultural Law Center

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States' Right-to-Farm Statutes:

*Alabama*



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# A National Agricultural Law Center Research Publication

## States' Right-to-Farm Statutes: Alabama

[Ala. Code § 6-5-127](#) and [Ala. Code § 2-6B-1 to 2-6B-7](#)

Current through Acts 2021, No. 21-564.

### **Ala. Code § 6-5-127. Agricultural or industrial plants.**

- (a) No agricultural, manufacturing, or other industrial plant or establishment, farming operation facility, or any racetrack for automobiles or motorcycles, or both, operated in conjunction with a museum that is owned by a nonprofit organization and has a building and collection on display which together have a minimum value of at least one million dollars (\$1,000,000), or any of its appurtenances or the operation thereof shall be or become a nuisance, private or public, by any changed conditions in and about the locality thereof after the same has been in operation for more than one year during which such plant, facility, establishment, farming operation facility, or racetrack, its appurtenances or the operation thereof has not been found by a court of competent jurisdiction to be a nuisance; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such plant, establishment, farming operation facility, or racetrack, or any of its appurtenances.
- (b) The provisions of subsection (a) of this section shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damage 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.
- (c) Any and all ordinances heretofore or hereafter adopted by any municipal corporation in which such plant, establishment, farming operation facility, or racetrack is located, which purports to make the operation of any such plant, establishment, farming operation facility, or racetrack, or its appurtenances a nuisance or providing for an abatement thereof as a nuisance in the circumstances set forth in this section are, and shall be, null and void; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such plant, establishment, farming operation facility, or racetrack, or any of its appurtenances.
- (d) This section shall not be construed to invalidate any contracts heretofore made, but, insofar as contracts are concerned, is only applicable to contracts and agreements to be made in the future.



### **Ala. Code § 2-6B-1. Short title; legislative intent.**

(a) This chapter shall be known and may be cited as “The Alabama Family Farm Preservation Act.”

(b) The Legislature recognizes the importance of the family farm in Alabama. It is the intent of the Legislature to assist in the preservation of family farms in Alabama by assuring that lawfully conducted farms and farm operations will not be considered to be public or private nuisances when and so long as they are operated in conformance with generally accepted agricultural and farm management practices, as described herein. The Legislature further recognizes that family farms may incorporate to take advantage of those provisions of law not afforded to other corporations.

### **Ala. Code § 2-6B-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the following respective meanings:

(1) Farm. — The land, including ponds, buildings, support facilities, machinery, equipment, tractors, implements, and other appurtenances used by the owner or operator thereof in the production of farm products, with respect to which there has been issued a farm serial number by the Farm Services Agency or which comports with the definition of a farm under 7 Code of Federal Regulations 718.2, or any subsequent regulation of similar import.

(2) Farm operation. — Any condition existing on a farm or activity taking place on a farm pursuant to the instigation or direction of the owner or operator of the farm, including in the latter case, the owner’s lessee, agent, or independent contractor, or of a supplier of goods or services, which condition or activity occurs, exists, or is supplied on a farm in connection with the production of farm products and includes, but is not limited to: The marketing of produce at roadside stands or farm markets; the operation of machinery, tractors, implements, and irrigation pumps in the production of farm products; the generation of noise, odors, dust, and fumes in the production of farm products; the plowing of farm land and the harvesting and the planting of trees or crops; the irrigation and ground or aerial seeding and spraying of farm and silvicultural products; the disposal of manure; the application of chemical fertilizers and amendments, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor in the production of farm and silvicultural products; provided, however, that such term shall not include or cover any condition existing or activities taking place on a public road or anywhere else other than on a farm as defined herein.

(3) Farm products. — Any plants, fish, or animals useful to, or intended to be consumed or used by, humans or other animals and plants, and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products,



poultry and poultry products, bees, livestock and livestock products, trees and silvicultural products, and fruits, berries, vegetables, flowers, seeds, grasses, and other similar products, as well as any product derived therefrom.

**Ala. Code § 2-6B-3. Conditions constituting a nuisance.**

(a) A farm or farm operation shall not be deemed to be or become a public or private nuisance for purposes of Section 6-5-127, Code of Alabama 1975, or any other provision of law, or be deemed in violation of any municipal or county ordinance or resolution heretofore or hereafter adopted declaring any farm or farm operation a public or private nuisance other than zoning ordinances applicable thereto, if the farm or farm operation meets all of the following requirements:

(1) The owner of the land or a partner, officer, director, or other principal thereof, does not act in a careless or wrongful manner, engage in the improper operation of any farm or farm operation, or fail to act or perform a legal obligation.

(2) The owner of the land, or a partner, officer, director, or other principal thereof, resides on the farm or actively participates in the operation of the farm, or leases the farm to a person who resides on the farm or actively participates in the operation of the farm.

(3) The farm or farm operation conforms to generally accepted agricultural and farm management practices, as well as applicable agricultural health and sanitary procedures, carried out consistently and in accordance with the appropriate rules, regulations, and orders applicable thereto then in force of the Alabama Department of Agriculture and Industries, the Alabama Department of Environmental Management, the Alabama Department of Public Health, the United States Environmental Protection Agency, and the United States Department of Agriculture, including, but not limited to the following agencies thereof: The Natural Resources Conservation Service, the Farm Service Agency, and the Animal and Plant Health Inspection Service.

(4) The farm does not comprise within its farm operations a concentrated animal feeding operation, as described in Section 2-6B-6, for feeding, farrowing, or finishing swine, or any combination thereof, which was not in existence and actively functioning as such on April 12, 2010, or any expansion of the maximum capacity of a concentrated animal feeding operation for swine which was in existence and actively functioning on April 12, 2010.

(b) The following conditions shall constitute evidence of a farm or farm operation being a nuisance:

(1) The owner of the land or a partner, officer, director, or other principal thereof, acts in a careless or wrongful manner, engages in the improper operation of any farm or farm operation, or fails to act or perform a legal obligation.



(2) The presence of untreated or improperly treated human waste, or of garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life that are not being handled or disposed of in accordance with applicable state or federal laws and regulations.

(3) The presence of improperly built or improperly maintained septic tanks, water closets, or privies.

(4) The keeping of diseased animals that are dangerous to human health, unless the animals are kept in accordance with a current state or federal disease control program.

(5) The presence of unsanitary places where animals are slaughtered, which may give rise to diseases harmful to human or animal life.

(6) The presence on the right of way of any public road abutting or traversing the farm of trash, abandoned or worn out equipment, vehicles, parts or implements, other than trash, or items placed there for scheduled removal or disposal.

(c) The conditions in subsection (b) shall not, however, constitute the only evidence to be considered in determining whether a farm or farm operation being conducted thereon constitutes a nuisance.

(d) No farm or farm operation shall be deemed to be or shall become a public or private nuisance solely as a result of a change in ownership of the land on which it is located, a change in the type of farm product being produced, a change in the boundaries of the farm, a change in conditions or use of property located adjacent to or in the vicinity of the land on which the farm operation is located, or a change in the farm operation brought about in order to comply with rules and regulations and orders adopted by local, state, or federal agencies.

#### **Ala. Code § 2-6B-4. Applicability of Litigation Accountability Act.**

The Alabama Litigation Accountability Act, Article 6 (commencing with Section 12-19-270 of Chapter 19 of Title 12 of the Code of Alabama 1975), shall apply to this chapter.

#### **Ala. Code § 2-6B-5. Family farm may not be declared nuisance.**

No municipality, county, or other unit of local government in the state, whether by ordinance, resolution, or otherwise, may declare or treat any farm or farm operation that meets the requirements of Section 2-6B-3 as a public or private nuisance, and any attempt to take such an action shall have no force and effect beyond the provisions of then applicable state and federal law, rule, or regulation.



### **Ala. Code § 2-6B-6. Concentrated animal feeding operations.**

In order that the citizens of Alabama shall have the opportunity to be as fully informed as practicable respecting the establishment hereafter in this state of farm operations known as Concentrated Animal Feeding Operations as defined in Section 502(14) of the Federal Clean Water Act, and as described in Chapter 335-6-7 of the rules promulgated by the Alabama Department of Environmental Management, the Legislature finds and declares that it is the public policy of this state that appropriate nonproprietary information respecting the pendency and issuance of National Pollutant Discharge Elimination Systems general or individual permits in respect of such farm operations be available to the citizens of Alabama, and that the Alabama Department of Environmental Management, in carrying out the public notice provisions and requirements of its Rules 335-6-6.21 and 335-6-6.23(5)(d) and (13), shall act consistently with this public policy and said rules and with all applicable federal requirements and guidelines including, by way of example and not limitation, the Unified National Animal Feeding Operation Strategy released by the U.S. Department of Agriculture and the U.S. Environmental Protection Agency on March 9, 1999.

### **Ala. Code § 2-6B-7. Construction.**

The provisions of this chapter are supplemental and shall not be construed to repeal any law not in direct conflict with this chapter.

