

No. 1998-58

## AN ACT

SB 682

Amending the act of June 10, 1982 (P.L.454, No.133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances," further providing for definitions and for limitation on public nuisances.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of June 10, 1982 (P.L.454, No.133), entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances," amended May 22, 1996 (P.L.336, No.52), is amended to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

***"Agricultural commodity."*** *Any of the following, transported or intended to be transported in commerce:*

- (1) Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products.*
- (2) Livestock and the products of livestock.*
- (3) Ranch-raised fur-bearing animals and the products of ranch-raised fur-bearing animals.*
- (4) The products of poultry or bee raising.*
- (5) Forestry and forestry products.*
- (6) Any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.*

***"Municipality."*** A county, city, borough, incorporated town, township or a general purpose unit of government as established by the act of April 13, 1972 (P.L.184, No.62), known as the "Home Rule Charter and Optional Plans Law."

***"Normal agricultural operation."*** The [customary and generally accepted] activities, practices, equipment and procedures that farmers adopt, use or engage [in year after year] in the production and preparation for market of poultry, livestock and their products and in the production [and], harvesting *and preparation for market or use* of agricultural, agronomic, horticultural, silvicultural and [aquicultural] *aquacultural* crops and commodities and is:

- (1) not less than ten contiguous acres in area; or

(2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

***The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry.***

Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the act of December 12, 1994 (P.L.944, No.134), known as the Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

Section 2. Section 4(a) of the act is amended to read:

Section 4. Limitation on public nuisances.

(a) No nuisance action shall be brought against an agricultural operation which has lawfully been in operation for one year or more prior to the date of bringing such action, where the conditions or circumstances complained of as constituting the basis for the nuisance action have existed substantially unchanged since the established date of operation and are normal agricultural operations, or if the physical facilities of such agricultural operations are substantially expanded or substantially altered and the expanded or substantially altered facility has ***either: (1) been in operation for one year or more prior to the date of bringing such action, or (2) been addressed in a nutrient management plan approved prior to the commencement of such expanded or altered operation pursuant to section 6 of the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, and is otherwise in compliance therewith:*** Provided, however, That nothing herein shall in any way restrict or impede the authority of this State from protecting the public health, safety and welfare or the authority of a municipality to enforce State law.

\* \* \*

Section 3. This act shall take effect as follows:

(1) The amendment of section 4(a) of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect immediately.

APPROVED—The 15th day of May, A.D. 1998.

THOMAS J. RIDGE