

**Side by Side Comparison of
Current Right-to-Farm Statute and Proposed Draft Changes**

Existing Statute	Proposed Draft Changes
<p>Sec. 1. 12 V.S.A. chapter 195 is amended to read:</p> <p style="text-align: center;">CHAPTER 195. NUISANCE SUITS AGAINST AGRICULTURAL ACTIVITIES</p> <p>§ 5751. LEGISLATIVE FINDINGS AND PURPOSE</p> <p>The General Assembly finds that agricultural production is a major contributor to the State’s economy; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of existing and the initiation of new agricultural activities preserve the landscape and environmental resources of the State, contribute to the increase of tourism, and further the economic welfare and self-sufficiency of the people of the State; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the State. In order for the agricultural industry to survive in this State, farms will likely change, adopt new technologies, and diversify into new products, which for some farms will mean increasing in size. The General Assembly finds that agricultural activities are potentially subject to lawsuits based on the theory of nuisance; and that these suits encourage and could force the premature removal of the farmlands and other farm resources from agricultural use. It is the purpose of this chapter to protect reasonable agricultural activities conducted on the farm from nuisance lawsuits.</p>	<p>Sec. 1. 12 V.S.A. chapter 195 is amended to read:</p> <p style="text-align: center;">CHAPTER 195. NUISANCE SUITS AGAINST AGRICULTURAL ACTIVITIES</p> <p>§ 5751. LEGISLATIVE FINDINGS AND PURPOSE</p> <p>The General Assembly finds that agricultural production is a major contributor to the State’s economy; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of existing and the initiation of new agricultural activities preserve the landscape and environmental resources of the State, contribute to the increase of tourism, and further the economic welfare and self-sufficiency of the people of the State; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the State. In order for the agricultural industry to survive in this State, farms will likely change, adopt new technologies, and diversify into new products, which for some farms will mean increasing in size. The General Assembly finds that agricultural activities are potentially subject to lawsuits based on the theory of nuisance; and that these suits encourage and could force the premature removal of the farmlands and other farm resources from agricultural use. It is the purpose of this chapter to protect reasonable agricultural activities conducted on the farm from nuisance lawsuits.</p>

Existing Statute	Proposed Draft Changes
<p>§ 5752. DEFINITIONS</p> <p>For the purpose of this chapter, “agricultural activity” means, but is not limited to:</p> <p>(1) the cultivation or other use of land for producing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; the raising, feeding, or management of domestic animals as defined in 6 V.S.A. § 1151 or bees; the operation of greenhouses; the production of maple syrup; the on-site storage, preparation, and sale of agricultural products principally produced on the farm; and the on-site production of fuel or power from agricultural products or wastes principally produced on the farm;</p> <p>(2) the preparation, tilling, fertilization, planting, protection, irrigation, and harvesting of crops; the composting of material principally produced by the farm or to be used at least in part on the farm; the ditching and subsurface drainage of farm fields and the construction of farm ponds; the handling of livestock wastes and by-products; and the on-site storage and application of agricultural inputs, including lime, fertilizer, and pesticides;</p> <p>(3) “farming” as defined in 10 V.S.A. § 6001; and</p> <p>(4) “agricultural activities” as defined in 6 V.S.A. § 4802.</p>	<p>§ 5752. DEFINITIONS</p> <p>For the purpose of <u>As used in</u> this chapter, “agricultural activity” means, but is not limited to:</p> <p>(1) the cultivation or other use of land for producing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; the raising, feeding, or management of domestic animals as defined in 6 V.S.A. § 1151 or bees; the operation of greenhouses; the production of maple syrup; the on-site storage, preparation, and sale of agricultural products principally produced on the farm; and the on-site production of fuel or power from agricultural products or wastes principally produced on the farm;</p> <p>(2) the preparation, tilling, fertilization, planting, protection, irrigation, and harvesting of crops; the composting of material principally produced by the farm or to be used at least in part on the farm; the ditching and subsurface drainage of farm fields and the construction of farm ponds; the handling of livestock wastes and by-products; and the on-site storage and application of agricultural inputs, including lime, fertilizer, and pesticides;</p> <p>(3) “farming” as defined in 10 V.S.A. § 6001; and</p> <p>(4) “agricultural activities” as defined in 6 V.S.A. § 4802.</p>

Existing Statute	Proposed Draft Changes
<p>§ 5753. AGRICULTURAL ACTIVITIES; PROTECTION FROM NUISANCE LAWSUITS</p> <p>(a)(1) Agricultural activities shall be entitled to a rebuttable presumption that the activity does not constitute a nuisance if the agricultural activity meets all of the following conditions:</p> <p>(A) it is conducted in conformity with federal, State, and local laws and regulations (including required agricultural practices);</p> <p>(B) it is consistent with good agricultural practices;</p> <p>(C) it is established prior to surrounding nonagricultural activities; and</p> <p>(D) it has not significantly changed since the commencement of the prior surrounding nonagricultural activity.</p> <p>(2) The presumption that the agricultural activity does not constitute a nuisance may be rebutted by a showing that the activity has a substantial adverse effect on health, safety, or welfare, or has a noxious and significant interference with the use and enjoyment of the neighboring property.</p> <p>(b) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health.</p>	<p>§ 5753. AGRICULTURAL ACTIVITIES; PROTECTION FROM NUISANCE LAWSUITS</p> <p>(a)(1) Agricultural activities shall be entitled to a rebuttable presumption that the activity does not constitute a nuisance if the agricultural activity meets all of the following conditions:</p> <p>(A) it is conducted in conformity with federal, State, and local laws and regulations (including required agricultural practices);</p> <p>(B) it is consistent with good agricultural practices;</p> <p>(C) it is established prior to surrounding nonagricultural activities; and</p> <p>(D) it has not significantly changed since the commencement of the prior surrounding nonagricultural activity.</p> <p>(2) The presumption that the agricultural activity does not constitute a nuisance may be rebutted by a showing that the activity has a substantial adverse effect on health, safety, or welfare, or has a noxious and significant interference with the use and enjoyment of the neighboring property.</p> <p>(b) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health. health No agricultural activity shall be or become a nuisance or trespass when the activity:</p> <p>(A) has been in operation for more than one year and the activity was not a nuisance or trespass at</p>

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<p>§ 5754. SEVERABILITY</p> <p>If any provision of this chapter is held invalid, the invalidity does not affect other provisions of this chapter that can be given effect without the invalid provision, and for this purpose, the provisions of this chapter are severable.</p>	<p><u>the time the activity was initiated; or</u></p> <p><u>(B) the activity complies with the requirements of 6 V.S.A. chapter 215, including permit requirements or requirements of the Required Agricultural Practices.</u></p> <p><u>(2) The nuisance and trespass protection for an agricultural activity provided for under subdivision (1) of this subsection shall not apply whenever a nuisance or trespass violation results from the negligent operation of an agricultural activity.</u></p> <p>§ 5754. <u>LIBERAL CONSTRUCTION:</u></p> <p>SEVERABILITY</p> <p><u>(a) This chapter is remedial in nature and shall be liberally construed to effectuate its purposes.</u></p> <p><u>(b) An agricultural activity shall not lose the nuisance or trespass protection under section 5753 of this title due to:</u></p> <p><u>(1) a change of ownership or a cessation of operation, in whole or in part, of not more than five years;</u></p> <p><u>(2) a change of crops produced; or</u></p> <p><u>(3) a change of a farming method or conversion of farming practices or agricultural activities to other farming methods, practices, or agricultural activities on a farm.</u></p> <p><u>(c) If any provision of this chapter is held invalid, the invalidity does not affect other provisions of this chapter that can be given effect without the invalid</u></p>

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	<p>provision, and for this purpose, the provisions of this chapter are severable.</p> <p>Sec. 2. EFFECTIVE DATE</p> <p><u>This act shall take effect on July 1, 2023.</u></p>

1. Farming as defined in 10 V.S.A. § 6001(22)

(22) “Farming” means:

(A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(B) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm;

or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(H) the importation of 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

2. Agricultural activities as defined in 6 V.S.A. § 4802

(10) “Agricultural activities” means the operation and management of an entity engaged in farming, including all those activities defined as “farming” in this chapter, “agricultural activity” in 12 V.S.A. § 5752, and all of the following:

(A) selling agricultural products at roadside stands or farm markets;

(B) the generation of noise, odors, dust, fumes, and other associated conditions;

(C) the composting of material principally produced by the farm or to be used at least in part on the farm;

(D) the ditching and subsurface drainage of farm fields and the construction of farm ponds;

(E) the handling of livestock wastes and by-products;

(F) the operation of farm machinery and equipment, including irrigation and drainage systems, pumps, and on-farm grain dryers;

(G) the movement of farm vehicles, machinery, equipment, and products and associated inputs on the roadway;

(H) field preparation, crop protection, and ground and aerial seeding and spraying;

(I) the on-site storage and application of agricultural inputs, including lime, fertilizer, organic materials, conditioners, and pesticides;

(J) the use of alternative pest management techniques;

(K) the management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes;

(L) the expansion of farming practices or agricultural activities on a farm or the change or conversion of farming practices or agricultural activities to other farming practices or agricultural activities on a farm; and

(M) the employment, use, and housing of farm labor.