

1 H.232

2 Introduced by Representatives Smith of New Haven, Bock of Chester, Graham
3 of Williamstown, Higley of Lowell, Norris of Shoreham,
4 Partridge of Windham, and Strong of Albany

5 Referred to Committee on

6 Date:

7 Subject: Court procedure; agriculture; nuisance; right-to-farm

8 Statement of purpose of bill as introduced: This bill proposes to amend the
9 right-to-farm law in Vermont to provide that no action for nuisance shall be
10 brought against the owner or operator of a farm that is lawfully conducting
11 agricultural activities.

12 An act relating to protection from nuisance lawsuits for agricultural
13 activities

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 12 V.S.A. § 5752 is amended to read:

16 § 5752. DEFINITIONS

17 ~~For the purpose of this chapter, “agricultural~~ As used in this chapter:

18 (1) “Agricultural activity” means, but is not limited to:

19 (1)(A) the cultivation or other use of land for producing food, fiber,
20 Christmas trees, maple sap, or horticultural and orchard crops; the raising,

1 feeding, or management of domestic animals ~~as defined in 6 V.S.A. § 1151~~ or
2 bees; the operation of greenhouses; the production of maple syrup; the on-site
3 storage, preparation, and sale of agricultural products principally produced on
4 the farm; and the on-site production of fuel or power from agricultural
5 products or wastes principally produced on the farm;

6 ~~(2)(B)~~ the preparation, tilling, fertilization, planting, protection,
7 irrigation, and harvesting of crops; the composting of material principally
8 produced by the farm or to be used at least in part on the farm; the ditching and
9 subsurface drainage of farm fields and the construction of farm ponds; the
10 handling of livestock wastes and by-products; and the on-site storage and
11 application of agricultural inputs, including lime, fertilizer, and pesticides.

12 (2) “Domestic animal” has the same meaning as in 6 V.S.A. § 1151.

13 (3) “Farm” means land that is owned or leased by a person engaged in
14 agricultural activities.

15 Sec. 2. 12 V.S.A. § 5753 is amended to read:

16 § 5753. AGRICULTURAL ACTIVITIES; PROTECTION FROM
17 NUISANCE LAWSUITS

18 ~~(a)(1) Agricultural activities shall be entitled to a rebuttable presumption~~
19 ~~that the activity does not constitute a nuisance if the agricultural activity meets~~
20 ~~all of the following conditions:~~

1 ~~(A) it is conducted in conformity with federal, State, and local laws~~
2 ~~and regulations (including required agricultural practices);~~

3 ~~(B) it is consistent with good agricultural practices;~~

4 ~~(C) it is established prior to surrounding nonagricultural activities;~~

5 ~~and~~

6 ~~(D) it has not significantly changed since the commencement of the~~
7 ~~prior surrounding nonagricultural activity.~~

8 ~~(2) The presumption that the agricultural activity does not constitute a~~
9 ~~nuisance may be rebutted by a showing that the activity has a substantial~~
10 ~~adverse effect on health, safety, or welfare, or has a noxious and significant~~
11 ~~interference with the use and enjoyment of the neighboring property.~~

12 No action for nuisance shall be brought against the owner or operator of a
13 farm that is lawfully conducting agricultural activities in conformance with the
14 requirements of 6 V.S.A. chapter 215 and all other applicable State and federal
15 law.

16 (b) An owner or operator of a farm who conducts an agricultural activity
17 protected under this section may expand the scope of the agricultural activity,
18 including increasing the acreage of the farm, increasing the number of
19 domestic animals on the farm, or changing agricultural activities, without
20 losing the protection from nuisance suit under subsection (a) of this section

1 provided that the expanded agricultural activity complies with the requirements
2 of 6 V.S.A. chapter 215 and all other applicable State and federal law.

3 (c) An owner or operator of a farm who conducts an agricultural activity
4 protected under this section may assign or transfer the protection under
5 subsection (a) of this section to any successor in interest.

6 (d) An owner or operator of a farm who conducts an agricultural activity
7 protected under this section shall not waive protection by temporarily ceasing
8 or decreasing the scope of the protected agricultural activity.

9 ~~(b)~~(e) Nothing in this section shall be construed to limit the authority of
10 State or local boards of health to abate nuisances affecting the public health.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on passage.