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

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

Existing Statute

§ 5752. DEFINITIONS

For the purpose of this chapter, "agricultural activity" means, but is not limited to:

(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;

(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;

(3) "farming" as defined in 10 V.S.A. \S 6001; and

(4) "agricultural activities" as defined in 6V.S.A. § 4802.

Proposed Draft Changes

§ 5752. DEFINITIONS

For the purpose of <u>As used in</u> this chapter, "agricultural activity" means, but is not limited to:

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\$ 5753. AGRICULTURAL ACTIVITIES;\$ 5753. AGRICULTURPROTECTION FROM NUISANCE LAWSUITSPROTECTION FROM NUISANCE LAWSUITS(a)(1) Agricultural activities shall be entitled to a(a)(1) Agricultural activities shall be entitled to arebuttable presumption that the activity does notrebuttable presumption that the activity does not(a) (1) Agricultural activities shall be entitled to a(a)(1) Agricultural activities all of the following conditions:(A) it is conducted in conformity with federal.(A) it is conducted in conformity with federal.State, and local laws and regulations (including required agricultural practices);State, and local laws and required agricultural practices;(B) it is consistent with good agricultural practices;(C) it is established prior to surrounding nonagricultural activities; and (D) it has not significantly changed since the commencement of the prior surrounding nonagricultural activity.(C) it is establi nonagricultural activity.(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.(b) Nothing in this section shall be construed to limit the authority of State or local boards of health abate nuisances affecting the public health.(b) Nothing in this section shall be construed to limit the authority of State or local boards of health aptate nuisances affecting agricultural activity shall trespass when the activity shall trespass when the activity shall trespass when the activity shall trespass when the activity shall trespa	d Draft Changes
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	<u>ll be or become a nuisance or</u>
	t <u>y:</u>
(A) has been if	n operation for more than one
year and the activity was	s not a nuisance or trespass at

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

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

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.