

1 S.45

2 Introduced by Senators Douglass, Beck, Brennan, Brock, Chittenden,  
3 Clarkson, Collamore, Cummings, Gulick, Harrison, Hart,  
4 Heffernan, Lyons, Major, Mattos, Norris, Perchlik, Watson,  
5 Weeks, Westman, White and Williams

6 Referred to Committee on Judiciary

7 Date: February 4, 2025

8 Subject: Court procedure; agriculture; nuisance suits; agricultural activities;  
9 right-to-farm

10 Statement of purpose of bill as introduced: This bill proposes to amend the  
11 protection against nuisance suits for agricultural activities under the Vermont  
12 right-to-farm law by providing that an agricultural activity shall not be a  
13 nuisance or trespass when the activity complies with generally accepted  
14 agricultural practices. The nuisance and trespass protection for an agricultural  
15 activity would not apply whenever a nuisance or trespass violation results from  
16 the negligent operation of an agricultural activity or from a violation of the  
17 State agricultural water quality requirements. The bill would also provide that  
18 an agricultural activity shall not lose nuisance or trespass protection due to a  
19 change of ownership or a cessation of operation of not more than five years; a  
20 change of crops produced; or a change of a farming method or conversion of a  
21 farming practice or agricultural activity to another farming method, practice,

1 or agricultural activity on a farm. The act would also provide that a person  
2 shall not bring a court action based on a claim of nuisance or trespass arising  
3 from an agricultural activity unless the person and the operator of the  
4 agricultural activity, at least once, attempt to resolve through mediation the  
5 issue or dispute that the person has concerning operation of the agricultural  
6 activity.

7 An act relating to protection from nuisance suits for agricultural activities

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

9 Sec. 1. 12 V.S.A. chapter 195 is amended to read:

10 CHAPTER 195. NUISANCE SUITS AGAINST AGRICULTURAL  
11 ACTIVITIES

12 § 5751. LEGISLATIVE FINDINGS AND PURPOSE

13 The General Assembly finds that agricultural production is a major  
14 contributor to the State's economy; that agricultural lands constitute unique  
15 and irreplaceable resources of statewide importance; that the continuation of  
16 existing and the initiation of new agricultural activities preserve the landscape  
17 and environmental resources of the State, contribute to the increase of tourism,  
18 and further the economic welfare and self-sufficiency of the people of the  
19 State; and that the encouragement, development, improvement, and

1 preservation of agriculture will result in a general benefit to the health and  
2 welfare of the people of the State. In order for the agricultural industry to  
3 survive in this State, farms will likely change, adopt new technologies, and  
4 diversify into new products, which for some farms will mean increasing in  
5 size. The General Assembly finds that agricultural activities are potentially  
6 subject to lawsuits based on the theory of nuisance; and that these suits  
7 encourage and could force the premature removal of the farmlands and other  
8 farm resources from agricultural use. It is the purpose of this chapter to  
9 protect reasonable agricultural activities conducted on the farm from nuisance  
10 lawsuits.

11 § 5752. DEFINITIONS

12 ~~For the purpose of~~ As used in this chapter;:

13 (1) “agricultural activity” means, but is not limited to:

14 ~~(1)~~(A) the cultivation or other use of land for producing food, fiber,  
15 Christmas trees, maple sap, or horticultural and orchard crops; the raising,  
16 feeding, or management of domestic animals as defined in 6 V.S.A. § 1151 or  
17 bees; the operation of greenhouses; the production of maple syrup; the on-site  
18 storage, preparation, and sale of agricultural products principally produced on  
19 the farm; and the on-site production of fuel or power from agricultural  
20 products or wastes principally produced on the farm;

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

7           (3)(C) “farming” as defined in 10 V.S.A. § 6001; and

8           (4)(D) “agricultural activities” as defined in 6 V.S.A. § 4802.

9           (2) “Generally accepted agricultural practices” mean:

10           (A) the requirements of 6 V.S.A. chapter 215, including permit  
11           requirements or requirements of the Required Agricultural Practices;

12           (B) the requirements of the Agency of Agriculture, Food and  
13           Markets’ Vermont Rule for Control of Pesticides; and

14           (C) practices conducted in a manner consistent with proper and  
15           accepted customs and standards followed by similar operators of agricultural  
16           activities in the State.

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

19           ~~(a)(1) Agricultural activities shall be entitled to a rebuttable presumption~~  
20           ~~that the activity does not constitute a nuisance if the agricultural activity meets~~  
21           ~~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~~ No  
12          agricultural activity shall be or become a nuisance or trespass when the activity  
13          is conducted in accordance with generally accepted agricultural practices.

14          ~~(b) Nothing in this section shall be construed to limit the authority of State~~  
15          ~~or local boards of health to abate nuisances affecting the public health~~ A  
16          plaintiff alleging that an agricultural activity is a nuisance or trespass shall  
17          have the burden of proving by a preponderance of the evidence that the  
18          agricultural activity is not conducted in accordance with generally accepted  
19          agricultural practice.

20          ~~(c) The nuisance and trespass protection for an agricultural activity~~  
21          provided for under subsection (a) of this section shall not apply whenever a

1 nuisance or trespass violation results from the negligent operation of an  
2 agricultural activity.

3 § 5754. LIBERAL CONSTRUCTION; SEVERABILITY

4 (a) This chapter is remedial in nature and shall be liberally construed to  
5 effectuate its purposes.

6 (b) An agricultural activity shall not lose the nuisance or trespass  
7 protection under section 5753 of this title due to:

8 (1) a change of ownership or a cessation of operation, in whole or in  
9 part, of not more than five years;

10 (2) a change of crops produced; or

11 (3) a change of a farming method or conversion of farming practices or  
12 agricultural activities to other farming methods, practices, or agricultural  
13 activities on a farm.

14 (c) If any provision of this chapter is held invalid, the invalidity does not  
15 affect other provisions of this chapter that can be given effect without the  
16 invalid provision, and for this purpose, the provisions of this chapter are  
17 severable.

18 § 5755. REQUIRED MEDIATION PRIOR TO SUIT

19 (a) A person shall not bring a court action based on a claim of nuisance or  
20 trespass arising from an agricultural activity unless the person and the operator  
21 of the agricultural activity, at least once, attempt to resolve through mediation

1 the issue or dispute that the person has concerning operation of the agricultural  
2 activity. The mediation shall be conducted according to the provisions of the  
3 Uniform Mediation Act set forth in 12 V.S.A. chapter 194.

4 (b) The parties to the mediation may agree upon the use of a mediator to  
5 assist in the resolution of the agreed upon issue or dispute, and the parties shall  
6 share the cost of the mediator. If the parties to the mediation are unable to  
7 resolve the relevant issue or dispute through mediation, the parties may agree  
8 to submit the issue or dispute to binding arbitration pursuant to 12 V.S.A.  
9 chapter 192 and shall share the cost of the arbitration.

10 (c) A person bringing a court action based on a claim of nuisance or  
11 trespass arising from an agricultural activity shall provide the court with a  
12 sworn statement of an attempt to resolve the issue or dispute through  
13 mediation.

14 Sec. 2. EFFECTIVE DATE

15 This act shall take effect on July 1, 2025.