

Right to Farm laws in Vermont and Other States

1. Vermont

§ 5753. Agricultural activities; protection from nuisance lawsuits

(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:

(A) It is conducted in conformity with federal, state, and local laws and regulations (including 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.

(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 to abate nuisances affecting the public health.

2. Kentucky

KRS § 413.072 Relationship of agricultural and silvicultural operations to law of nuisance and trespass; preemption of local ordinances; sustainable agriculture and best management practices

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(2) No agricultural or silvicultural operation or any of its appurtenances shall be or become a nuisance or trespass, private or public, or be in violation of any zoning ordinance, or be subject to any ordinance that would restrict the right of the operator of the agricultural or silvicultural operation to utilize normal and accepted practices, by any changed conditions in or about the locality thereof after the same has been in operation for more than one (1) year, when the operation was not a nuisance at the time the operation began. The provisions of this subsection shall not apply whenever a nuisance, trespass, or zoning violation results from the negligent operation of an agricultural or silvicultural operation or its appurtenances.

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(5) An agricultural or silvicultural operation shall not lose its status by reason of a change of ownership or a cessation of operation of no more than five (5) years or one (1) year after the expiration of a state or national program contract, either in whole or in part, nor shall it lose its status by reason of changes of crops or methods of production due to the introduction and use of new and generally accepted technologies which allow the operator to continue an existing agricultural or silvicultural corporation, unless the operation is substantially changed.

3. Michigan

286.473. Circumstances under which farms or farm operation are not public or private nuisances

(a) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary.

(b) A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.

(c) A farm or farm operation that is in conformance with subsection (a) shall not be found to be a public or private nuisance as a result of any of the following:

- (1) A change in ownership or size.
- (2) Temporary cessation or interruption of farming.
- (3) Enrollment in governmental programs.
- (4) Adoption of new technology.
- (5) A change in type of farm product being produced.

4. Oregon

30.936. Immunity from private action based on farming or forest practice on certain lands; exceptions

(a) No farming or forest practice on lands zoned for farm or forest use shall give rise to any private right of action or claim for relief based on nuisance or trespass.

(b) Subsection (a) of this section shall not apply to a right of action or claim for relief for:

- (1) Damage to commercial agricultural products; or
- (2) death or serious physical injury as defined in ORS 161.015.

(c) Subsection (a) of this section applies regardless of whether the farming or forest practice has undergone any change or interruption.