

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 12: Court Procedure

Chapter 195: Nuisance Suits Against Agricultural Activities

§ 5751. Legislative findings and purpose

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. (Added 1981, No. 68, eff. May 1, 1981; amended 2003, No. 149 (Adj. Sess.), § 12, eff. June 3, 2004.)

§ 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. § 6001; and

(4) “agricultural activities” as defined in 6 V.S.A. § 4802. (Added 1981, No. 68, eff. May 1, 1981; amended 2003, No. 149 (Adj. Sess.), § 12, eff. June 3, 2004; 2021, No. 162 (Adj. Sess.), § 12, eff. June 1, 2022.)

§ 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. (Added 1981, No. 68, eff. May 1, 1981; amended 2003, No. 149 (Adj. Sess.), § 12, eff. June 3, 2004.)

§ 5754. Severability

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. (Added 2003, No. 149 (Adj. Sess.), § 12, eff. June 3, 2004.)