

Senate Engrossed House Bill

agricultural operations; water; protection; definition

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2124

AN ACT

AMENDING SECTIONS 3-111, 3-112 AND 13-2917, ARIZONA REVISED STATUTES;
RELATING TO AGRICULTURAL PROTECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section. 1. Section 3-111, Arizona Revised Statutes, is amended to
3 read:

4 3-111. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Agricultural operations":

7 (a) Means all activities by the owner, lessee, agent, independent
8 contractor and supplier conducted on any facility for the production of
9 crops, livestock, poultry, livestock products or poultry products or for
10 the purposes of agritourism.

11 (b) INCLUDES ANY WATER USE BY AN OWNER, LESSEE, AGENT, INDEPENDENT
12 CONTRACTOR AND SUPPLIER CONDUCTED ON ANY FACILITY FOR THE PRODUCTION OF
13 CROPS, LIVESTOCK, POULTRY, LIVESTOCK PRODUCTS OR POULTRY PRODUCTS OR FOR
14 THE PURPOSES OF AGRITOURISM.

15 2. "Agritourism" means any activity that allows members of the
16 general public, for recreational or educational purposes, to view, enjoy
17 or participate in rural activities, including farming, ranching,
18 historical, cultural, u-pick, harvest-your-own produce or natural
19 activities and attractions occurring on property defined as agricultural
20 real property pursuant to section 42-12151 if the activity is conducted in
21 connection with and directly related to a business whose primary income is
22 derived from producing livestock or agricultural commodities for
23 commercial purposes.

24 3. "Farmland" means land devoted primarily to the production for
25 commercial purposes of livestock or agricultural commodities.

26 Sec. 2. Section 3-112, Arizona Revised Statutes, is amended to
27 read:

28 3-112. Agricultural operations; nuisance liability; damages;
29 state preemption

30 A. Agricultural operations, conducted on farmland that are
31 consistent with good agricultural practices and established before
32 surrounding nonagricultural uses are presumed to be reasonable and do not
33 constitute a nuisance unless the agricultural operation has a substantial
34 adverse effect on the public health and safety.

35 B. Agricultural operations undertaken in conformity with federal,
36 state and local laws and regulations are presumed to be good agricultural
37 practices and TO not adversely affecting AFFECT the public health and
38 safety.

39 C. In a nuisance action against an agricultural operation conducted
40 on farmland:

41 1. The court may award costs and expenses, including reasonable
42 attorney fees, to the prevailing party.

43 2. If the court determines that a party filed a nuisance action
44 under one of the following circumstances, the court shall award reasonable
45 costs and attorney fees to the other party:

1 (a) The action was not filed in good faith.

2 (b) The action was not grounded in fact or based on law.

3 (c) The action was filed for an improper purpose, such as to harass
4 the other party, to cause an unnecessary delay or to increase the cost of
5 litigation to the other party.

6 (d) THE ACTION WAS FILED TO TAKE OR REDUCE THE WATER USED BY THE
7 OTHER PARTY.

8 3. The court may not award punitive damages for a nuisance action
9 unless the alleged nuisance emanated from an agricultural operation that
10 has been subject to a criminal conviction or a civil enforcement action
11 taken by a state or federal environmental or health regulatory agency
12 pursuant to a notice of violation for the conduct alleged to be the source
13 of the nuisance.

14 D. For the purposes of this section, costs and expenses may include
15 attorney fees, deposition costs and other reasonable expenses as the court
16 finds necessary to ~~the full~~ FULLY and ~~proper presentation of~~ PROPERLY
17 PRESENT the action, including any appeal.

18 E. A city, town, county, special taxing district or other political
19 subdivision of this state may not declare an agricultural operation
20 conducted on farmland to be a nuisance if the agricultural operation's
21 practices are lawful, customary, reasonable, safe and necessary to the
22 agriculture industry as the practices pertain to an agricultural
23 operation's practices as determined by the agricultural best management
24 practices committee established by section 49-457, the Arizona department
25 of agriculture or the department of environmental quality.

26 Sec. 3. Section 13-2917, Arizona Revised Statutes, is amended to
27 read:

28 13-2917. Public nuisance; abatement; classification

29 A. It is a public nuisance, and is no less a nuisance because the
30 extent of the annoyance or damage inflicted is unequal, for anything:

31 1. To be injurious to health, indecent, offensive to the senses or
32 an obstruction to the free use of property that interferes with the
33 comfortable enjoyment of life or property by an entire community or
34 neighborhood or by a considerable number of persons.

35 2. To unlawfully obstruct the free passage or use, in the customary
36 manner, of any navigable lake, river, bay, stream, canal or basin, or any
37 public park, square, street or highway.

38 B. It is a public nuisance for any person to sell, offer to sell,
39 transfer, trade or disseminate any OBSCENE item ~~which is obscene~~ as
40 defined in section 13-3501, within two thousand feet, measured in a
41 straight line, of the nearest boundary line of any of the following:

42 1. Any building used as a private or public elementary or high
43 school.

44 2. Any public park.

45 3. Any residence district as defined in section 28-101.

1 C. The county attorney, ~~the attorney general~~ or the city attorney
2 may bring an action in superior court to abate, enjoin and prevent the
3 activity described in subsections A and B of this section.

4 D. Any person who knowingly maintains or commits a public nuisance
5 or who knowingly fails or refuses to perform any legal duty relating to
6 the removal of a public nuisance is guilty of a class 2 misdemeanor.