



The Agricultural Law Resource and Reference Center

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Pennsylvania Right to Farm Act Fact Sheet

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Maintaining an abundant and affordable food supply is fundamental to the survival of every human society. As the population in the United States has steadily increased throughout its history, the nation's agricultural producers have successfully responded to each demand for increased production. Unfortunately, this increase in population, combined with the modern agriculture practices used to meet these demands, has frequently led to tensions between farmers and the non-farmer residents that surround their agricultural operations.

Due to agriculture's essential role in feeding the nation's growing population, every state has determined it necessary to provide assistance to farmers confronted with non-farmer conflicts. As a result, each state legislature has granted farmers special legal protections through the enactment of right-to-farm laws. Accordingly, on June 10, 1982, the Pennsylvania legislature enacted the Pennsylvania Right to Farm Act (PA RTFA) [3 Pa. Stat. §§ 951-957].

Purpose of PA RTFA

The intended purpose of PA RTFA is to provide State support to agricultural operations. According to the statutes stated legislative policy, PA RTFA was passed "to conserve and protect and encourage the development and improvement of [the Commonwealth's] agricultural land for the production of food and other agricultural products..." Furthermore, PA RTFA was a legislative attempt "to reduce the loss to the Commonwealth of its agricultural resources by limiting the circumstances under which agricultural operations may be the subject matter of nuisance lawsuits and ordinances."

Protections granted by PA RTFA

In an attempt to fulfill its stated purpose, PA RTFA provides farmers with three specific protections: 1) a requirement that municipalities exclude "normal agricultural operations" from any definition of public nuisance; 2) a limitation on nuisance actions that may be brought against agricultural operations; and 3) a limitation on the ability of municipalities to restrict direct commercial sales of agricultural products.

Requirement that municipalities exclude “normal agricultural operations” from definition of public nuisance

Under PA RTFA, “every municipality shall encourage the continuity, development and viability of agricultural operations within its jurisdiction.” As a way of promoting this goal, PA RTFA mandates that whenever a municipality chooses to define or prohibit a public nuisance, the municipality must exclude all “normal agricultural operations” from their nuisance definition.

According to PA RTFA, a normal agricultural operation is considered anything that involves the activities, practices, equipment, and procedures utilized by farmers that are consistent with the technological developments within the agricultural industry:

- In the production and preparation for market of poultry, livestock and their products; OR
- In the production, harvesting and preparation for market of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities

Furthermore, for farm activities, practices, equipment, and procedures to qualify as a normal agricultural operation, the farming enterprise must be either:

- Ten contiguous acres in size; OR
- Have an anticipated yearly gross income of at least \$10,000

Limitation on nuisance actions against agricultural operations

PA RTFA specifically seeks to limit a farmer’s exposure to nuisance litigation. Accordingly, under PA RTFA, a nuisance action is not to be brought against an agricultural operation if all three of the following factors are present:

- The agricultural operation has been lawfully operating for at least one year;
- The conditions complained of have existed since the date the agricultural operation was established; AND
- The conditions complained of are related to a “normal agricultural operation” (as defined above)

Additionally, a nuisance action is not to be brought against the expansion or alteration of an agricultural operation if either:

- The expansion or alteration has existed for at least one year; OR
- The expansion or alteration has been specifically addressed in an approved Nutrient Management Plan

Limitation on ability of municipalities to restrict direct commercial sales of agricultural products

For many agricultural operators, on-farm sales of agricultural products are an essential source of revenue. Recognizing this circumstance, PA RTFA seeks to encourage the profitability of farming by requiring that municipalities permit the on-farm direct commercial sale of agricultural commodities whenever:

- The landowner is the operator of the property; AND
- This landowner/operator produces at least 50% of the agricultural commodities sold on the property

- If, however, the landowner/operator experiences crop failure beyond their control, the requirement that they produce at least 50% of the agricultural commodities sold no longer applies

Under PA RTFA an agricultural commodity is defined as any of the following:

- Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products;
- Livestock and products of livestock;
- Ranch-raised fur-bearing animals and products of ranch-raised fur-bearing animal;
- Products of poultry and bee raising;
- Forestry and forestry products; AND
- Any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption

Exceptions to PA RTFA

The protections provided under PA RTFA are not absolute. Pennsylvania farmers forfeit the protections granted under PA RTFA if at any time their agricultural operation:

- Has a direct adverse effect on the public health and safety;
- Pollutes water or causes flooding; OR
- Is in violation of any Federal, State or local statute or regulation that applies to the agricultural operation

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