

Understanding Agricultural Law Educational Program

Understanding the Basics of
Right to Farm Laws

March 27, 2026



Understanding Agricultural Law

A Legal Educational Series for General Practice Attorneys and Business Advisors Representing Agricultural and Rural Clients

This webinar series is specifically tailored to develop subject matter literacy and competence on fundamental issues of agricultural law for attorneys, advisors, and service providers to agricultural producers and agri-businesses with the aim of

"building a team of financial and technical expertise as a resource for Pennsylvania farmers."



Pennsylvania
Department of Agriculture
AG BUSINESS DEVELOPMENT CENTER

Established through 2019 PA Farm Bill

To enhance the long-term vitality of
PA farms, ABDC supports

- Farm Transitions
- Beginning Farmers
- Risk Management
- Financial Assistance



Understanding Agricultural Law Educational Program

Previous Topics:

1. 4.29.22. Agricultural Labor Laws
2. 5.20.22. Leasing Farmland for Energy Development
3. 6.24.22. Local Land Use Regulation of Agriculture
4. 7.22.22. Statutory Protections for Agricultural Operations.
5. 8.26.22. Agricultural Cooperatives
6. 9.23.22. Livestock Market Regulation
7. 10.21.22. Crop Insurance
8. 11.18.22. Federal & State Conservation Programs
9. 12.16.22. Licensing & Regulation of Direct Agricultural Product Sales
10. 1.27.23. Agricultural Finance
11. 2.24.23. Pennsylvania's 'Clean & Green' Preferential Tax Assessment Program
12. 3.24.23. Farm Animal Handling & Confinement Laws
13. 4.28.23. Agricultural Conservation Easement Programs
14. 5.19.23. Landowner Immunity Statutes
15. 6.23.23. Farm Credit System
16. 7.28.23. USDA Commodity Programs
17. 8.25.23. Milk Pricing
18. 9.22.23. Pesticides
19. 10.27.23. Federal and State Seed Laws
20. 11.17.23. Fair Labor Standards Act
21. 1.12.24. Perishable Agricultural Commodities Act
22. 1.26.24. Food Labeling
23. 2.23.24. Clean & Green Separations & Split-offs: Leasing, Subdividing, Selling Enrolled Land
24. 3.22.24. Organic Production
25. 4.26.24. Producer Protections for Buyer Default
26. 5.24.24. Pennsylvania's Agricultural Area Security Law
27. 6.28.24. Clean Water Act & Agriculture
28. 7.26.24. Agritourism Laws
29. 8.23.24. H-2A Temporary Agricultural Worker Program
30. 9.27.24. PA Food Establishments & Cottage Food Regulations
31. 10.25.24. Right to Repair Laws
32. 11.22.24. Animal Disease Control & Quarantines
33. 12.13.24. Children, Minors & Farm Work
34. 1.24.25. Pennsylvania's Carbon Sequestration Law
35. 2.28.25. Pesticide Drift
36. 3.28.25. Clean Water Act & Ag: Impaired Waters & TMDL Process
37. 5.8.25. PA Ag Exemptions for Inheritance Tax & Other Real Estate Transfers
38. 5.30.25. Migrant and Seasonal Agricultural Worker Protection Act
39. 6.27.25. PA's Clean & Green Program: County-Level Administration
40. 7.25.25. ADA Compliance for Agritourism Operations
41. 8.22.25. Foreign Agricultural Land Ownership Laws
42. 9.26.25. U.S. Grain Dealer Statutes
43. 10.31.25. Immigration Compliance: I-9s, Audits and ICE Raids
44. 11.21.25. Cell Cultured Foods & Labeling Laws
45. 12.12.25. Clean Water Act & Ag: Biosolids & Food Processing Waste Land Application
46. 1.23.26. Pennsylvania's Seasonal Farm Labor Act
1. 2.27.26. USDA's National Appeals Division

Upcoming programs from the Ag Law Center:

Understanding Agricultural Law Educational Program

Understanding the Basics of

- April 24—Renewable Fuel Standard
- May 22—the PA Preferred Program
- June 26—Agricultural Vehicle Regulation
- July 24—International Agricultural Trade & Tariffs

PA Attorney CLE available (PACLE)

Register at <https://aglaw.psu.edu/understanding-agricultural-law/>

All events: <https://aglaw.psu.edu/events/>

Upcoming programs from the Ag Law Center:

Quarterly Dairy Legal Webinar Series:

- Apr. 14—1st Quarter 2026: **Dietary Guidelines, 2025-2030**
- July 14—2nd Quarter 2026
- Oct. 13—3rd Quarter 2026
PA Attorney CLE Available (PACLE)



Register at <https://aglaw.psu.edu/quarterly-dairy-legal-webinar/>
All events: <https://aglaw.psu.edu/events/>

AgWorks: Connecting Agricultural Businesses to Workforce Services and Training



Pennsylvania
Department of
Labor & Industry



Center for Agricultural
and Shale Law

This project is funded 100% with federal funds from a US Department of Labor grant totaling \$1,325,699.00 and 0% (\$0.00) non-federal funds. Auxiliary aids and services are available upon request to individuals with disabilities. Equal Opportunity Employer/Program.

With AgWorks, the Center for Agricultural and Shale Law will present 20+ employment law programs.

Please note: Webinars are open to all, but Attorney CLE is NOT available for these webinars

- Mar. 31—Special Laws for Seasonal or Temporary Workers
- Apr. 28—Overview of H2A & H2B Non-Immigrant Visa Programs
- May 26—Applying for the H2A & H2B Visa Programs

All events: <https://aglaw.psu.edu/events/>

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Housekeeping

- This webinar is being recorded.
- Please use the **Q&A feature** for questions.
- Please fill out surveys.
- **CLE credits:**
 - You **must be registered for this webinar** and **fill out the CLE form** to receive credits
 - Link to **CLE form** posted in the **chat & event webpage**
 - Listen for **code word**, enter code word in the form
 - Please fill out form ASAP

Understanding Agricultural Law Educational Program

Understanding the Basics of
Right to Farm Laws

March 27, 2026



Overview of Presentation

- Background for Right to Farm Laws
- Right to Farm Laws and Nuisance generally
- Pennsylvania Right to Farm statute
- Pennsylvania Right to Farm case law
- Right to Farm issues nationally

Background – Societal / Agricultural Transitions

- Rural society to urban society
 - Fewer farms
 - Continued expansion of residential areas
 - Fewer people with farm experience
- Development of agricultural operations
 - Larger farms
 - New technologies / practices

Background – Societal / Agricultural Transitions

- Changes in agriculture and housing patterns can lead to:
 - Conflicts between farms and neighbors
 - Increase in local regulation
 - Increase in land values
 - Provide a larger base upon which to borrow capital
 - Result in higher property taxes
 - Farmers exiting business



Questions for State and Local Policymakers

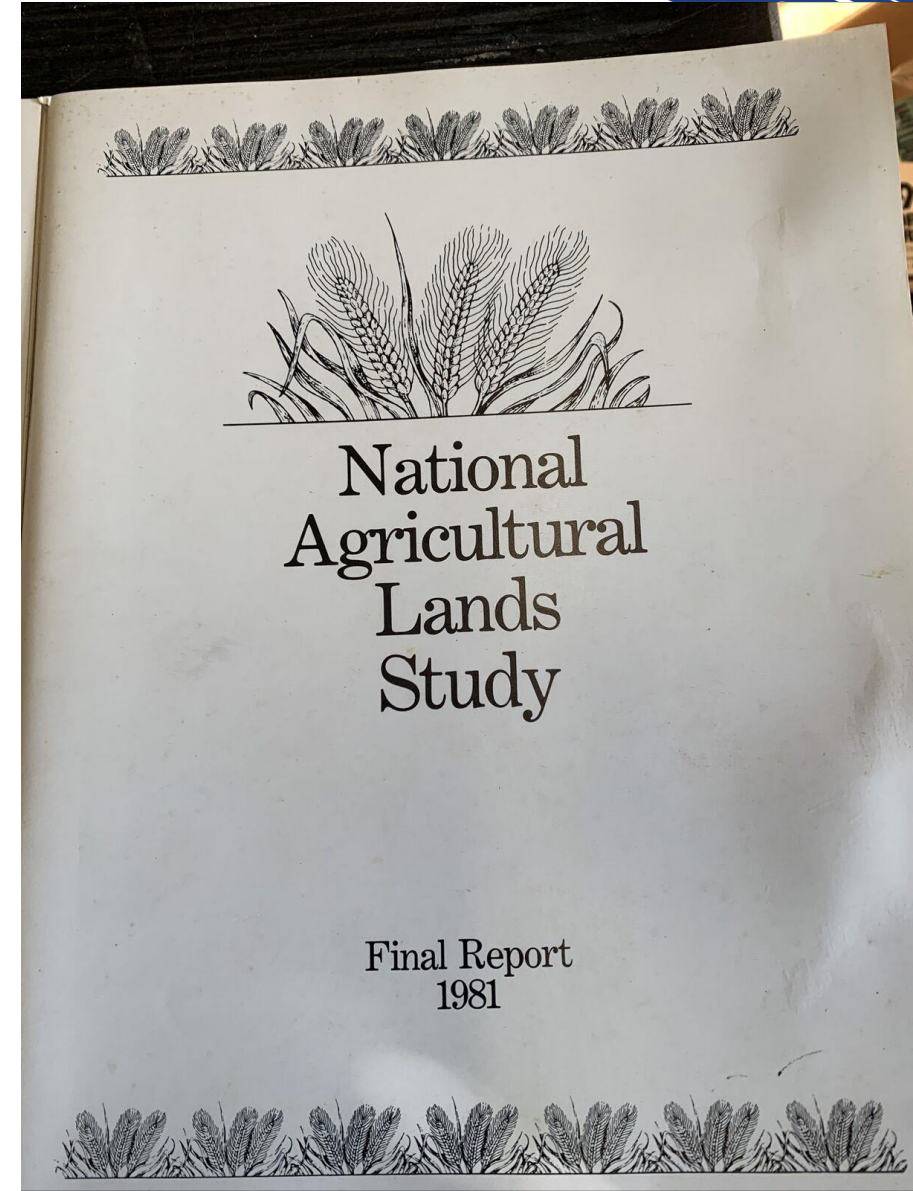
- Should agriculture receive protection?
- Should agriculture be treated differently than other small businesses or industries?
- If so, what types of protection should agriculture receive?

Rationales for Protection of Agriculture

- Economic development
- Agrarian heritage / ideals
- Food security / national security
- Preservation of open space
 - Does this actually protect agriculture or only specific types of agriculture?
- Fairness

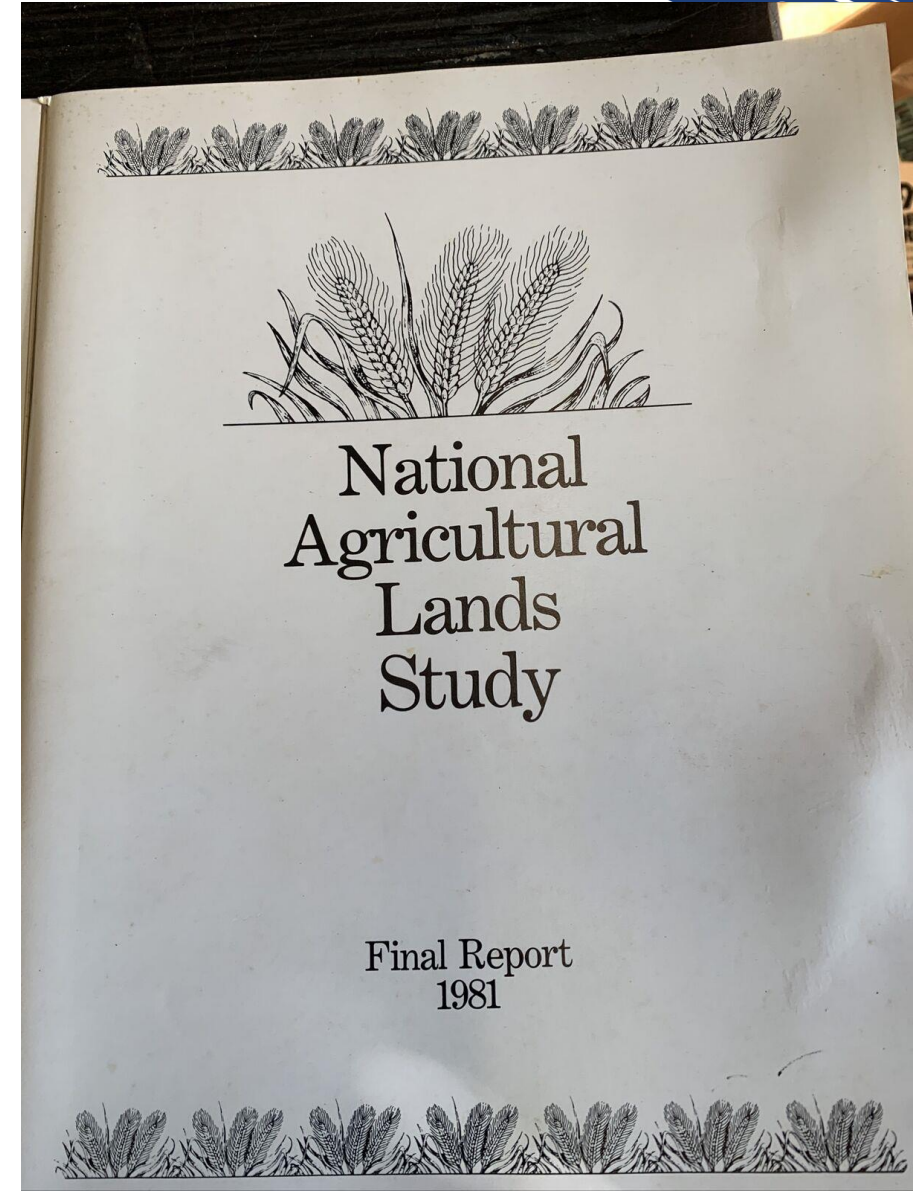
National Agricultural Lands Study

- Initiated by USDA and President's Council on Environmental Quality in 1979



National Agricultural Lands Study – Charge

- Determining the nature, rate, extent, and causes of conversion of agricultural land to nonagricultural uses.
- Evaluating the economic, environmental, and social consequences of agricultural land conversion and methods used to attempt to restrain and retard conversion.
- Recommending administrative and legislative actions, if found necessary, to reduce potential losses to the nation that might result from continued conversion of agricultural land to nonagricultural uses.
- Presenting a final report on findings and recommendations in January 1981.



Specific Programs to Protect Agriculture

- Right to Farm Laws
- Limitation of municipal regulations
- Preferential tax assessments
- Establishment of agricultural districts
- Agricultural conservation easement programs

Prior Content in Understanding Agricultural Law Webinar Series

- 7/2/22 – Statutory Protections for Agricultural Operations
- 2/24/23 – Pennsylvania Clean & Green Preferential Tax Assessment Program
- 4/28/23 – Agricultural Conservation Easement Programs
- 2/23/24 – Clean & Green Separations & Split-offs
- 5/24/24 – Pennsylvania’s Agricultural Area Security Law
- 6/27/25 – Pennsylvania Clean & Green Program: County-Level Administration

Nuisance Law

- Landowner cannot use land in manner that unreasonably interferes with another landowner's use of land.
- Determination of nuisance balances benefits of use against harm caused by use.
- Private vs. public nuisance:
 - Private nuisance interferes with rights of individual.
 - Public nuisance interferes with rights of community.

Nuisance Law

- The remedies available for a party prevailing in a nuisance suit include:
 - Injunction
 - Damages
 - Injunction but payment of damages by prevailing party
 - Least cost-avoider solution
 - Applied in *Spur Industries v. Del E. Webb Development Corp.*, 494 P.2d 700 (Ariz. 1972).

“Coming to the Nuisance” Defense

- Early user has greater rights than later user.
- “Coming to the nuisance” was a defense under common law.
- “Coming to the nuisance” was being applied less frequently.
 - *Pendoley v. Ferreira*, 345 Mass. 309 (1963) – successful nuisance action against Massachusetts hog farm

Right to Farm Laws – Generally

- Right to Farm Laws have been enacted in all 50 states.
 - Utah became final state to enact RTF law in 1994.
- All Right to Farm Laws attempt to remedy farm – non-farm conflicts.
- The specific provisions in Right to Farm Laws vary from state to state.
- Right to Farm Laws generally limit nuisance lawsuits against farms.

Right to Farm Law Resources

- Pennsylvania
 - Statute and resources available on CASL website Pennsylvania Right to Farm Act Virtual Resource Room
- National
 - National Agricultural Law Center – States’ Right-To-Farm Statutes

Pennsylvania Right to Farm Act

- 3 P.S. §§ 951-957
- Enacted on June 10, 1982
- Amended in 1998 to address expansion or alteration of agricultural operations.

Pennsylvania Right to Farm Act – Legislative Policy

- “to conserve and protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. . .”
- “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 suits and ordinances.”

Pennsylvania Right to Farm Act – Protections Granted

- Requires that municipalities exclude normal agricultural operations from definition of public nuisance;
- Limits nuisance actions against agricultural operations; and
- Limits ability of municipalities to restrict direct commercial sales of agricultural products.

Pennsylvania Right to Farm Act – “Normal Agricultural Operations”

- The activities, practices, equipment, and procedures utilized in production, harvesting, and preparation for market
- Of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities
- For operations that are at least ten acres in size or produce annual gross income of at least \$10,000.

Limitation on Nuisance Actions

- Right to Farm Act is a defense to nuisance action against agricultural operation where:
 - Operation has been lawfully operating for at least one year;
 - Conditions complained of have existed since established date of operation; and
 - Conditions complained of are normal agricultural operations.

Limitation on Nuisance Actions

- Where agricultural operations are expanded or altered, Right to Farm Act is defense to nuisance action if:
 - Operation has expanded or altered for at least one year; OR
 - Expansion or alteration has been addressed in Nutrient Management Plan.



Direct Commercial Sales

- Direct commercial sales are permitted:
 - On property owned and operated by landowner
 - who produces at least 50% of agricultural commodities sold.
 - 50% threshold is waived in instances of crop failure

Exceptions to Application of Right to Farm Act

- Right to Farm Act does not protect farmers where:
 - Agricultural operation has direct adverse effect on public health and safety;
 - Agricultural operation is in violation of federal, state, or local statute or regulation;
 - Agricultural operation pollutes water or causes flooding.

Case Law: *Horne v. Haladay* (Pa. Super. 1999)

- Facts:
 - Nov. 1993 – 122,000 laying hens in poultry house
 - Aug. 1994 – decomposition building constructed
 - Nov. 1995 – nuisance lawsuit filed
- Claims:
 - Failure to control flies, strong odor, and excessive noise
 - Alleged devaluation of property by \$60,000

Case Law: *Horne v. Haladay* (Pa. Super. 1999)

- Court opinion:
 - Right to Farm Act covered private nuisance as well as public nuisance.
 - Right to Farm Act covered pre-existing neighbors.
- Holding:
 - Upheld dismissal of case because it had not been filed within one-year time period.

Case Law: *Burlingame v. Dagostin* (Pa. Super. 2018)

- Facts:
 - 1955 – Dagostin family operated dairy farm
 - 1990s – conversion to beef farm
 - 2011 – began process for conversion to hog facility as contract grower for Country View Family Farms
 - Feb 2012 – land development plan approved by township
 - May 2012 – nutrient management plan approved by state

Case Law: *Burlingame v. Dagostin* (Pa. Super. 2018)

- Facts:
 - 1/23/13 – pigs placed in facility
 - June 2013 or April 2014 – liquid swine manure applied to farm fields
 - Complaints filed on May 16, 2014 and April 27, 2015
- Defendant received summary judgment from Court of Common Pleas.

Case Law: *Burlingame v. Dagostin* (Pa. Super. 2018)

- Issues Presented:
 - Does 1-year statute of repose begin when pigs were delivered to facility despite there being a substantial change in conditions after that date?
 - Is nuisance claim barred due to approval of nutrient management plan when there had been no expansion or alteration of the CAFO?

Case Law: *Burlingame v. Dagostin* (Pa. Super. 2018)

- Three-prong test:
 - (1) Agricultural operation must have lawfully operated for at least one year before filing of complaint
 - Court – Agricultural operation was farm itself not the CAFO
 - (2) condition complained of are normal agricultural operations
 - Court – parties do not dispute that spreading of liquid swine manure is a normal agricultural operation

Case Law: *Burlingame v. Dagostin* (Pa. Super. 2018)

- Three-prong test:
 - (3) the conditions complained of have existed unchanged since the operation was established OR if the physical facilities have been substantially expanded or altered, facilities have operated for one year or been addressed in NMP
 - Operation was established in 1955.
 - The CAFO is not the operation.
 - Expansion / alteration was addressed by NMP in 2012.

Case Law: *Gilbert v. Synagro* (Pa. 2015)

- Facts:
 - 34 neighbors of York County farm filed nuisance lawsuit.
 - Synagro provided Hilltop Farms with biosolids.
 - March 2006 to April 2009 – 11,635 tons of biosolids applied over 54 days to surface of fields
 - July 2008 – neighbors filed suit

Case Law: *Gilbert v. Synagro* (Pa. 2015)

- Statute of repose vs. statute of limitations
 - Statute of repose – jurisdictional
 - Begins when event occurs even if no harm has occurred.
 - Scope is for courts to determine
 - Statute of limitations – pled as defense
 - Begins upon accrual of claim
- PA Right to Farm Act has a statute of repose.

Case Law: *Gilbert v. Synagro* (Pa. 2015)

- Land application of biosolids is a normal agricultural operation.
 - Appropriate to determine what is a normal agricultural operation as a matter of law
- Not necessary to determine whether “agricultural operation” refers to the farm or the practice as the suit was not filed within the one-year time period

Case Law: *Gilbert v. Synagro* (Pa. 2015)

- To effectuate legislative purpose of statute, “normal agricultural operation” should be read expansively taking new technology into account.
- PA DEP has permitted application of biosolids on approximately 1500 sites.
- Manner of application at a particular site is not relevant to determination of “normal agricultural operation.”

Case Law: *Remaley v. Zook* (Snyder Co. CCP 2009)

- Facts:
 - 1975 – Remaleys acquire 26.4-acre tract
 - 1979 – Zooks acquire 125-acre tract
 - 1979 to 2009 – Zooks operate a dairy farm
 - 2007 – Zooks construct poultry barn
 - Aug 2007 – 16,000 chickens moved into facility
 - Nov 2007 – writ of summons filed

Case Law: *Remaley v. Zook* (Snyder Co. CCP 2009)

- Facts:
 - Zook poultry barn was not large enough to require the filing of a nutrient management plan.
 - Court – “evidence supports the conclusion that the Defendants’ poultry business is operating by the highest applicable agricultural standards.”

Case Law: *Remaley v. Zook* (Snyder Co. CCP 2009)

- Court ruling:
 - “Defendants’ conduct has not been unreasonable.”
 - “The gravity of harm suffered by the Plaintiffs does not outweigh the utility of the Defendants’ conduct in operating a poultry farm in an agricultural community.”

Case Law: *Remaley v. Zook* (Snyder Co. CCP 2009)

- Court ruling:
 - “[t]he alleged injury is not permanently affecting the Plaintiffs’ health and is not comparatively serious; the cost of avoiding it is significant; and the conduct causing it is extremely important in that the area of Middlecreek Township is predominantly a farming community, and has been such long before the Plaintiffs’ purchased their property.”

Case Law: *Remaley v. Zook* (Snyder Co. CCP 2009)

- Holding:
 - “The Defendants’ poultry barn does not constitute a nuisance as a matter of law.”
- Court’s Commentary:
 - “Unfortunately for the Plaintiffs, the reality is that they built their house right in the middle of Pennsylvania farmland, in a community where there is no zoning, and where the risk of livestock farming clashing with their personal interests is likely.”

Right to Farm Act – Constitutional Issues

- Type One – Limited Prohibition on Filing Suit Against Farming Operations
- Type Two – Absolute Prohibition on Filing Suit Against Farming Operations

Right to Farm Act – Unconstitutional Statute

- *Bormann v. Board of Supervisors*, 584 N.W.2d 309 (Iowa 1998)
 - “A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation.”

North Carolina – 2018 Legislative Changes

- Removed “coming to nuisance” requirement for RTF application
- Limit nuisance lawsuits to legal possessors of real estate
- Limit nuisance lawsuits to those within ½ mile from offending farm
- Limit damage awards

Additional Right to Farm Provisions

- Some Right to Farm Laws will impose fees for filing of an unsuccessful nuisance action.
- California has enacted a homeowner notification requirement.

California Right to Farm Notification Law

- Requires notification to be provided to individual purchasing property within one mile of a designated agricultural area.
- Law took effect January 1 ,2009.

California Right to Farm Notification Law

- “[T]he property may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector.”
- “Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pump and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides.”

California Right to Farm Notification Law

- “These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase.”

“New” Right to Farm Laws

- North Dakota 2012 Constitutional amendment
 - Approved by 2-1 margin

Text of Section 29:

The right of farmers and ranchers to engage in modern farming and ranching practices shall be forever guaranteed in this state. No law shall be enacted which abridges the right of farmers and ranchers to employ agricultural technology, modern livestock production and ranching practices.



“New” Right to Farm Laws

- 2014 – Missouri ballot measure passed
- 2016 – Oklahoma ballot measure failed
- 2023 – Texas ballot measure passed

Thank You!

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May 22—the PA Preferred Program

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