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HOUSE BILL 51

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Yvette Herrell

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO AGRICULTURE; AMENDING THE RIGHT TO FARM ACT TO PREVENT CERTAIN AGRICULTURAL OPERATIONS OR AGRICULTURAL FACILITIES FROM BEING FOUND TO BE A NUISANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 47-9-3 NMSA 1978 (being Laws 1981, Chapter 287, Section 3, as amended) is amended to read:

"47-9-3. AGRICULTURAL OPERATIONS DEEMED NOT A NUISANCE.--

A. Any agricultural operation or agricultural facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the agricultural operation or agricultural facility if the operation was not a nuisance at the time the operation began and has been in existence for more than one year; except that the provisions of this section shall not apply whenever an

.194807.2

underscored material = new
[bracketed material] = delete

1 agricultural operation or agricultural facility is operated
2 negligently [~~improperly~~] or illegally such that the operation
3 or facility is a nuisance.

4 B. Any ordinance or resolution of any unit of local
5 government that makes the operation of any agricultural
6 operation or agricultural facility a nuisance or provides for
7 abatement of it as a nuisance under the circumstances set forth
8 in this section shall not apply when an agricultural operation
9 is located within the corporate limits of any municipality as
10 of [~~the effective date of the Right to Farm Act~~] April 8, 1981.

11 C. The established date of operation is the date on
12 which an agricultural operation commenced or an agricultural
13 facility was originally constructed. If an agricultural
14 operation or agricultural facility is subsequently expanded or
15 a new technology is adopted, the established date of operation
16 does not change."