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SENATE BILL 229

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

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO AGRICULTURE; AMENDING THE RIGHT TO FARM ACT TO CLARIFY THAT OPERATING AN AGRICULTURAL OPERATION OR FACILITY IN CONFORMITY WITH FEDERAL LAWS SHALL NOT BE DECLARED 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~~

.195339.2

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 ~~agricultural operation or agricultural facility is operated~~
2 ~~negligently, improperly or illegally such that the operation or~~
3 ~~facility is a nuisance]. Recovery for private nuisance is not~~
4 ~~allowed against any agricultural operation or agricultural~~
5 ~~facility if negligence or other theory of recovery is~~
6 ~~available.~~

7 B. Any ordinance or resolution of any unit of local
8 government that makes the operation of any agricultural
9 operation or agricultural facility a nuisance or provides for
10 abatement of it as a nuisance under the circumstances set forth
11 in this section shall not apply when an agricultural operation
12 or agricultural facility is [~~located within the corporate~~
13 ~~limits of any municipality as of the effective date of the~~
14 ~~Right to Farm Act]~~ substantially in compliance with the
15 applicable federal laws.

16 C. The established date of operation is the date on
17 which an agricultural operation commenced or an agricultural
18 facility was originally constructed. If an agricultural
19 operation or agricultural facility is subsequently expanded or
20 a new technology is adopted, the established date of operation
21 does not change."