

1 SENATE BILL 72

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

11 RELATING TO PROPERTY; AMENDING THE RIGHT TO FARM ACT TO PROTECT  
12 AGRICULTURAL OPERATIONS OR FACILITIES FROM NUISANCE CLAIMS.

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

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

17 "47-9-3. AGRICULTURAL OPERATIONS DEEMED NOT A NUISANCE.--

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

.202637.1

underscored material = new  
[bracketed material] = delete

1 negligently or illegally such that the operation or facility is  
2 a nuisance.

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

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

16 D. No cause of action based upon nuisance may be  
17 brought by a person whose claim arose following the purchase,  
18 lease or rental of property proximate to a previously  
19 established agricultural operation or agricultural facility,  
20 except when such previously established agricultural operation  
21 or agricultural facility has substantially changed in the  
22 nature and scope of its operations."