

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 978

Short Title: Forestry/Limit Nuisance Liability.

(Public)

Sponsors: Representative Anderson.

Referred to: Agriculture.

April 19, 1991

A BILL TO BE ENTITLED  
AN ACT TO PROTECT AGRICULTURAL OPERATIONS FROM NUISANCE  
SUITS UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. Article 57 of Chapter 106 of the General Statutes reads as  
rewritten:

**"ARTICLE 57.**

**"NUISANCE LIABILITY OF AGRICULTURAL AND FORESTRY  
OPERATIONS.**

**"§ 106-700. Legislative determination and declaration of policy.**

It is the declared policy of the State to conserve and protect and encourage the  
development and improvement of its agricultural and forest land for the production of  
~~food~~ food, fiber, and other ~~agricultural~~ products. When ~~nonagricultural~~ other land uses  
extend into agricultural and forest areas, agricultural and forestry operations often  
become the subject of nuisance suits. As a result, agricultural and forestry operations are  
sometimes forced to ~~cease operations.~~ cease. Many others are discouraged from making  
investments in farm and forest improvements. It is the purpose of this Article to reduce  
the loss to the State of its agricultural and forestry resources by limiting the  
circumstances under which an agricultural or forestry operations ~~operation~~ may be  
deemed to be a nuisance.

**"§ 106-701. When agricultural and forestry operation, etc., not constituted  
nuisance by changed conditions in locality.**

(a) No agricultural or forestry operation or any of its appurtenances shall be or  
become a nuisance, private or public, by any changed conditions in or about the locality

1 thereof after the same has been in operation for more than one year, when such  
2 operation was not a nuisance at the time the operation began; provided, that the  
3 provisions of this subsection shall not apply whenever a nuisance results from the  
4 negligent or improper operation of any such agricultural or forestry operation or its  
5 appurtenances.

6 (b) For the purposes of this Article, 'agricultural or forestry operation' includes,  
7 without limitation, any facility for the production for commercial purposes of crops,  
8 livestock, poultry, livestock products, ~~or poultry products~~, products, or forest products.

9 (c) The provisions of subsection (a) shall not affect or defeat the right of any  
10 person, firm, or corporation to recover damages for any injuries or damages sustained  
11 by ~~them~~ him on account of any pollution of, or change in condition of, the waters of any  
12 stream or on the account of any overflow of lands of any such person, firm, or  
13 corporation.

14 (d) Any and all ordinances of any unit of local government now in effect or  
15 hereafter adopted that would make the operation of any such agricultural or forestry  
16 operation or its appurtenances a nuisance or providing for abatement thereof as a  
17 nuisance in the circumstance set forth in this section are and shall be null and void;  
18 provided, however, that the provisions of this subsection shall not apply whenever a  
19 nuisance results from the negligent or improper operation of any such agricultural or  
20 forestry operation or any of its appurtenances. Provided further, that the provisions  
21 shall not apply whenever a nuisance results from an agricultural or forestry operation  
22 located within the corporate limits of any city at the time of enactment hereof.

23 (e) This section shall not be construed to invalidate any contracts heretofore  
24 made but insofar as contracts are concerned, it is only applicable to contracts and  
25 agreements to be made in the future."

26 Sec. 2. This act becomes effective October 1, 1991.