

House Bill 1087 (PASSED HOUSE AND SENATE)

By: Representatives Ray of the 128th, Floyd of the 138th, Royal of the 164th and Purcell of the 147th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 41-1-7 of the Official Code of Georgia Annotated, relating to
2 treatment of agricultural facilities and operations as nuisances, so as to change the provisions
3 relating to the declared policy of the state; to provide for additional definitions; to provide
4 an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 41-1-7 of the Official Code of Georgia Annotated, relating to treatment of
8 agricultural facilities and operations as nuisances, is amended by striking subsections (a) and
9 (b) of said Code section and inserting in their place the following:

10 "(a) It is the declared policy of the state to conserve, protect, and encourage the
11 development and improvement of its agricultural land and facilities for the production of
12 food and other agricultural products. When nonagricultural land uses extend into
13 agricultural areas or when there are changed conditions in or around the locality of an
14 agricultural facility, agricultural operations often become the subject of nuisance actions.
15 As a result, agricultural facilities are sometimes forced to cease operations. Many others
16 are discouraged from making investments in farm improvements or adopting new
17 technology or methods. It is the purpose of this Code section to reduce losses of the state's
18 agricultural resources by limiting the circumstances under which agricultural facilities and
19 operations may be deemed to be a nuisance.

20 (b) As used in this Code section, the term:

21 (1) 'Agricultural area' means any land which is, or may be, legally used for an
22 agricultural operation under applicable zoning laws, rules, and regulations at the time of
23 commencement of the agricultural operation of the agricultural facility at issue and
24 throughout the first year of operation of such agricultural facility. Any land which is not
25 subject to zoning laws, rules, and regulations at the time of commencement of an
26 agricultural operation of an agricultural facility and throughout the first year of operation

1 of such agricultural facility shall be deemed an 'agricultural area' for purposes of this
 2 Code section.

3 ~~(1)~~(2) 'Agricultural facility' includes, but is not limited to, any land, building, structure,
 4 pond, impoundment, appurtenance, machinery, or equipment which is used for the
 5 commercial production or processing of crops, livestock, animals, poultry, honeybees,
 6 honeybee products, livestock products, poultry products, or products which are used in
 7 commercial aquaculture. Such term shall also include any farm labor camp or facilities
 8 for migrant farm workers.

9 ~~(2)~~(3) 'Agricultural operation' means:

10 (A) The plowing, tilling, or preparation of soil at an agricultural facility;

11 (B) The planting, growing, fertilizing, or harvesting of crops;

12 (C) The application of pesticides, herbicides, or other chemicals, compounds, or
 13 substances to crops, weeds, or soil in connection with the production of crops,
 14 livestock, animals, or poultry;

15 (D) The breeding, hatching, raising, producing, feeding, keeping, slaughtering, or
 16 processing of livestock, hogs, equines, chickens, turkeys, poultry or other fowl
 17 normally raised for food, mules, cattle, sheep, goats, dogs, rabbits, or similar farm
 18 animals for commercial purposes;

19 (E) The production and keeping of honeybees, the production of honeybee products,
 20 and honeybee processing facilities;

21 (F) The production, processing, or packaging of eggs or egg products;

22 (G) The manufacturing of feed for poultry or livestock;

23 (H) The rotation of crops;

24 (I) Commercial aquaculture;

25 (J) The application of existing, changed, or new technology, practices, processes, or
 26 procedures to any agricultural operation; and

27 (K) The operation of any roadside market.

28 (4) 'Changed conditions' means any one or more of the following:

29 (A) Any change in the use of land in an agricultural area;

30 (B) An increase in the magnitude of an existing use of land in or around the locality of
 31 an agricultural facility and includes, but is not limited to, urban sprawl into an
 32 agricultural area in or around the locality of an agricultural facility, or an increase in the
 33 number of persons making any such use, or an increase in the frequency of such use;

34 or

35 (C) The construction or location of improvements on land in or around the locality of
 36 an agricultural facility closer to an agricultural facility than those improvements located
 37 on such land at the time of commencement of the agricultural operation or the

1 agricultural facility at issue and throughout the first year of operation of said
2 agricultural facility.

3 (5) 'Urban sprawl' means either of the following, or both:

4 (A) The conversion of agricultural areas from traditional agricultural use to residential
5 use; or

6 (B) An increase in the number of residences in an agricultural area which increase is
7 unrelated to the use of the agricultural area for traditional agricultural purposes."

8 **SECTION 2.**

9 This Act shall become effective upon its approval by the Governor or upon becoming law
10 without such approval.

11 **SECTION 3.**

12 All laws and parts of laws in conflict with this Act are repealed.