

Senate Bill 511

By: Senators Bulloch of the 11th, Hill of the 4th, Seabaugh of the 28th, Balfour of the 9th,
Gillis of the 20th and others

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to nuisances, so as to change certain provisions relating to
3 treatment of agricultural facilities and operations as nuisances; to provide that certain
4 agricultural support facilities shall not be or become nuisances due to changed conditions in
5 or around the locations of such facilities; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 41 of the Official Code of Georgia Annotated, relating to general
9 provisions relative to nuisances, is amended by striking Code Section 41-1-7, relating to
10 treatment of agricultural facilities and operations as nuisances, and inserting in lieu thereof
11 the following:

12 "41-1-7.

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

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

1 (1) 'Agricultural area' means any land which is, or may be, legally used for an
 2 agricultural operation under applicable zoning laws, rules, and regulations at the time of
 3 commencement of the agricultural operation of the agricultural facility at issue and
 4 throughout the first year of operation of such agricultural facility. Any land which is not
 5 subject to zoning laws, rules, and regulations at the time of commencement of an
 6 agricultural operation of an agricultural facility and throughout the first year of operation
 7 of such agricultural facility shall be deemed an 'agricultural area' for purposes of this
 8 Code section.

9 (2) 'Agricultural facility' includes, but is not limited to, any land, building, structure,
 10 pond, impoundment, appurtenance, machinery, or equipment which is used for the
 11 commercial production or processing of crops, livestock, animals, poultry, honeybees,
 12 honeybee products, livestock products, poultry products, or products which are used in
 13 commercial aquaculture. Such term shall also include any farm labor camp or facilities
 14 for migrant farm workers.

15 (3) 'Agricultural operation' means:

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

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

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

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

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

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

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

29 (H) The rotation of crops;

30 (I) Commercial aquaculture;

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

33 (K) The operation of any roadside market.

34 (3.1) 'Agricultural support facility' means any food processing plant together with all
 35 related or ancillary activities, including trucking; provided, however, this term expressly
 36 excludes any rendering plant facility or operation.

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

1 (A) Any change in the use of land in an agricultural area or in an industrial or
 2 commercial area affecting an agricultural support facility;

3 (B) An increase in the magnitude of an existing use of land in or around the locality of
 4 an agricultural facility or agricultural support facility and includes, but is not limited to,
 5 urban sprawl into an agricultural area or into an industrial or commercial area in or
 6 around the locality of ~~an agricultural~~ such facility, or an increase in the number of
 7 persons making any such use, or an increase in the frequency of such use; or

8 (C) The construction or location of improvements on land in or around the locality of
 9 an agricultural facility or agricultural support facility closer to ~~an agricultural~~ such
 10 facility than those improvements located on such land at the time of commencement of
 11 the agricultural or agricultural support operation or the agricultural facility or
 12 agricultural support facility at issue and throughout the first year of operation of said
 13 ~~agricultural~~ facility.

14 (4.1) 'Food processing plant' means a commercial operation that manufactures, packages,
 15 labels, or stores food for human consumption and does not provide food directly to a
 16 consumer.

17 (4.2) 'Rendering plant' has the meaning provided by Code Section 4-4-40.

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

19 (A) The With regard to an agricultural area or agricultural operation:

20 (i) The conversion of agricultural areas from traditional agricultural use to residential
 21 use; or

22 ~~(B)~~(ii) An increase in the number of residences in an agricultural area which increase
 23 is unrelated to the use of the agricultural area for traditional agricultural purposes.

24 (B) With regard to an agricultural support facility:

25 (i) The conversion of industrial or commercial areas to residential use; or

26 (ii) An increase in the number of residences in an industrial or commercial area
 27 which increase is unrelated to the use of the industrial or commercial area for
 28 traditional industrial or commercial purposes.

29 (c) No agricultural facility, ~~or~~ any agricultural operation at an agricultural facility,
 30 agricultural support facility, or any operation at an agricultural support facility shall be or
 31 shall become a nuisance, either public or private, as a result of changed conditions in or
 32 around the locality of such ~~agricultural~~ facility if the ~~agricultural~~ facility has been in
 33 operation for one year or more. The provisions of this subsection shall not apply when a
 34 nuisance results from the negligent, improper, or illegal operation of any ~~agricultural~~ such
 35 facility.

36 (d) For purposes of this Code section, the established date of operation is the date on
 37 which an agricultural operation or agricultural support facility commenced operation. If the

1 physical facilities of the agricultural operation or the agricultural support facility are
2 subsequently expanded or new technology adopted, the established date of operation for
3 each change is not a separately and independently established date of operation and the
4 commencement of the expanded operation does not divest the agricultural operation or
5 agricultural support facility of a previously established date of operation."

6 **SECTION 2.**

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