

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 892
HOUSE BILL 978

AN ACT TO PROTECT FORESTRY 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 land and forestland for the production of ~~food~~ food, fiber, and other ~~agricultural~~ 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 thereof after the same has been in operation for more than one year, when such operation was not a nuisance at the time the operation began; provided, that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural or forestry operation or its appurtenances.

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

(b1) For the purposes of this Article, 'forestry operation' shall mean those activities involved in the growing, managing, and harvesting of trees, but not sawmill operations.

(c) The provisions of subsection (a) shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by ~~them~~ him on account of any pollution of, or change in condition of, the waters of any

stream or on the account of any overflow of lands of any such person, firm, or corporation.

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

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

Sec. 2. This act becomes effective October 1, 1992.

In the General Assembly read three times and ratified this the 8th day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives