

CS FOR HOUSE BILL NO. 82(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/6/01

Referred: Resources

Sponsor(s): REPRESENTATIVES HARRIS, James, Coghill, Whitaker, Masek, Ogan, Green, Meyer, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to agricultural facilities and operations as private nuisances; and to
2 disclosures in transfers of certain real property located within the vicinity of an
3 agricultural facility or an agricultural operation."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 09.45.235(a) is amended to read:

6 (a) An **agricultural facility or an** agricultural operation **at an agricultural**
7 **facility** is not and does not become a private nuisance **as a result of** [BY] a changed
8 condition that exists **in the area of the agricultural facility** [ON NEIGHBORING
9 LAND] if the agricultural **facility** [OPERATION HAS BEEN IN OPERATION FOR
10 MORE THAN THREE YEARS AND IF THE AGRICULTURAL OPERATION] was
11 not a nuisance at the time the agricultural **facility** [OPERATION] began **agricultural**
12 **operations. For purposes of this subsection, the time an agricultural facility**
13 **began agricultural operations refers to the date on which any type of agricultural**
14 **operation began on that site regardless of any subsequent expansion of the**

1 **agricultural facility or adoption of new technology. An agricultural facility or an**
 2 **agricultural operation at an agricultural facility is not a private nuisance if the**
 3 **governing body of the local soil and water conservation district advises the**
 4 **commissioner in writing that the facility or operation is consistent with a soil**
 5 **conservation plan developed and implemented in cooperation with the district.**

6 * **Sec. 2.** AS 09.45.235(b) is amended to read:

7 (b) The provisions of (a) of this section do not apply to

8 (1) liability resulting from improper, **illegal**, or negligent conduct of
 9 agricultural operations; or

10 (2) flooding caused by the agricultural operation.

11 * **Sec. 3.** AS 09.45.235(d) is amended to read:

12 (d) In this section, ["AGRICULTURAL OPERATION" MEANS]

13 (1) **"agricultural facility" means any land, building, structure,**
 14 **pond, impoundment, appurtenance, machinery, or equipment that is used or is**
 15 **intended for use in the commercial production or processing of crops, livestock,**
 16 **or livestock products, or that is used in aquatic farming;**

17 (2) **"agricultural operation" means**

18 (A) any agricultural and farming activity such as

19 (i) [(A)] the **preparation, plowing,** cultivation,
 20 conserving, and tillage of the soil;

21 (ii) [(B)] dairying;

22 (iii) [(C)] the operation of greenhouses;

23 (iv) [(D)] the production, cultivation, **rotation,**
 24 **fertilization,** growing, and harvesting of an agricultural, floricultural,
 25 **apicultural,** or horticultural **crop or** commodity;

26 (v) [(E)] the **breeding, hatching,** raising, **producing,**
 27 **feeding, keeping, slaughtering, or processing** of livestock [, BEES,
 28 FUR-BEARING ANIMALS, OR POULTRY];

29 (vi) [(F)] forestry or timber harvesting operations;

30 (vii) **the application and storage of pesticides,**
 31 **herbicides, animal manure, treated sewage sludge or chemicals,**

1 compounds, or substances to crops, or in connection with the
 2 production of crops or livestock;

3 (viii) the manufacturing of feed for poultry or
 4 livestock;

5 (ix) aquatic farming;

6 (x) the operation of roadside markets; and

7 **(B)** [(2)] any practice conducted on the agricultural **facility**
 8 [OPERATION] as an incident to or in conjunction with activities described in
 9 (A) of this paragraph, including the application of existing, changed, or
 10 new technology, practices, processes, or procedures;

11 (3) "livestock" means horses, cattle, sheep, bees, goats, swine,
 12 poultry, reindeer, elk, musk oxen, and other animals kept for use or profit [(1)
 13 OF THIS SUBSECTION].

14 * **Sec. 4.** AS 34.70.050 is amended to read:

15 **Sec. 34.70.050. Form of disclosure statement.** The Real Estate Commission
 16 established under AS 08.88.011 shall establish the form of the disclosure statement
 17 required by AS 34.70.010. The disclosure statement must include a provision that
 18 notifies transferees

19 (1) that they are responsible for determining whether a person who has
 20 been convicted of a sex offense resides in the vicinity of the property that is the
 21 subject of the transferee's potential real estate transaction; [AND]

22 (2) where information about the location of convicted sex offenders
 23 can be obtained; **and**

24 (3) that they are responsible for determining whether, in the
 25 vicinity of the property that is the subject of the transferee's potential real estate
 26 transaction, there is an agricultural facility or agricultural operation that might
 27 produce odor, fumes, dust, smoke, burning, vibrations, insects, rodents, the
 28 operation of machinery including aircraft, and other inconveniences or
 29 discomforts as a result of lawful agricultural operations.

30 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 APPLICABILITY. The provisions of sec. 4 of this Act apply to a sale, purchase, or
2 exchange of residential or recreational property located within the vicinity of an agricultural
3 facility or an agricultural operation included in a soil conservation plan approved by the local
4 soil and water conservation district if the sale, purchase, or exchange is agreed to on or after
5 the effective date of this Act.