

HOUSE BILL NO. 82

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES HARRIS, James, Coghill, Whitaker, Masek, Ogan, Green, Meyer, Dyson

Introduced: 1/19/01

Referred: Judiciary, Resources

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 real property located within one mile of an agricultural**
3 **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 more than
10 three years **or** [AND] if the agricultural **facility** [OPERATION] was not a nuisance at
11 the time the agricultural **facility** [OPERATION] began **agricultural operations. For**
12 **purposes of this subsection, the time an agricultural facility began agricultural**
13 **operations refers to the date on which any type of agricultural operation began**
14 **on that site regardless of any subsequent expansion of the agricultural facility or**

1 **adoption of new technology. An agricultural facility or an agricultural operation**
 2 **at an agricultural facility is not a private nuisance if the governing body of the**
 3 **local soil and water conservation district advises the commissioner in writing that**
 4 **the facility or operation is consistent with a farm conservation plan developed**
 5 **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 in the**
 15 **commercial production or processing of crops, livestock, or livestock products, or**
 16 **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,**

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

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

(ix) aquatic farming;

(x) the operation of roadside markets; and

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

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

* **Sec. 4.** AS 34.70 is amended by adding a new section to read:

Article 2. Disclosures in Transfers of Real Property Within One Mile of an Agricultural Facility or an Agricultural Operation.

Sec. 34.70.300. Disclosures in Transfers of Real Property Within One Mile of an Agricultural Facility or an Agricultural Operation. (a) Before the transfer of an interest in real property located within one mile of an agricultural facility or an agricultural operation, the transferor shall deliver by mail or in person to the transferee a written disclosure statement that includes the following:

The property you are about to acquire is located within one mile of an agricultural facility or an agricultural operation. Lawful application of pesticides, herbicides, and fertilizers occur in agricultural operations. You may be subject at any time to odor, fumes, dust, smoke, burning, vibrations, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts created as a result of lawful agricultural operations. You should be prepared to accept the inconveniences as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

1 (b) A copy of the disclosure statement delivered under (a) of this section shall
 2 be recorded along with the conveyance of an interest in real property located within
 3 one mile of an agricultural facility or an agricultural operation.

4 (c) For purposes of this section,

5 (1) "agricultural facility" has the meaning given in AS 09.45.235(d);

6 (2) "agricultural operation" has the meaning given in AS 09.45.235(d).

7 * **Sec. 5.** AS 40.17.110 is amended by adding a new subsection to read:

8 (e) If the document is a disclosure statement under AS 34.70.300, it must
 9 comply with the requirements of that section.

10 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 **APPLICABILITY.** The provisions of secs. 4 and 5 of this Act apply to a contract for
 13 the sale, purchase, or exchange of real property located within one mile of an agricultural
 14 facility or an agricultural operation executed on or after the effective date of this Act.

15 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 **REVISOR'S INSTRUCTION.** The revisor of statutes shall substitute the spanned
 18 reference "AS 34.70.010 - 34.70.200" for the references to "this chapter" in AS 34.70.010 -
 19 34.70.200.