

**CS FOR SENATE BILL NO. 60(JUD) am**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 4/5/01

Offered: 4/2/01

Sponsor(s): SENATORS GREEN, Taylor, Therriault

**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, **manufacturing,**  
 30        **or processing** operations;

31                                      (vii) **the application and storage of pesticides,**

1                   herbicides, animal manure, treated sewage sludge or chemicals,  
 2                   compounds, or substances to crops, or in connection with the  
 3                   production of crops or livestock;

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

6                   (ix) aquatic farming;

7                   (x) the operation of roadside markets; and

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

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

15 \* **Sec. 4.** AS 34.70.050 is amended to read:

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

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

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

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

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

1 read:

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