

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 45
RIGHT TO FARM

22-4501. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that agricultural activities conducted on farmland in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses, and in some cases prohibit investments in agricultural improvements. It is the intent of the legislature to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance. The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the state of Idaho.

[22-4501, added 1981, ch. 177, sec. 1, p. 311.]

22-4502. DEFINITIONS. As used in this chapter:

- (1) "Agricultural facility" includes, without limitation, any land, building, structure, ditch, drain, pond, impoundment, appurtenance, machinery or equipment that is used in an agricultural operation.
- (2) "Agricultural operation" means an activity or condition that occurs in connection with the production of agricultural products for food, fiber, fuel and other lawful uses, and includes, without limitation:
 - (a) Construction, expansion, use, maintenance and repair of an agricultural facility;
 - (b) Preparing land for agricultural production;
 - (c) Applying pesticides, herbicides or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil;
 - (d) Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticultural crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plants, plant products, plant byproducts, plant waste and plant compost;
 - (e) Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal byproducts, animal waste, animal compost, and bees, bee products and bee byproducts;
 - (f) Processing and packaging agricultural products, including the processing and packaging of agricultural products into food and other agricultural commodities;
 - (g) Manufacturing animal feed;
 - (h) Transporting agricultural products to or from an agricultural facility;
 - (i) Noise, odors, dust, fumes, light and other conditions associated with an agricultural operation or an agricultural facility;
 - (j) Selling agricultural products at a farmers or roadside market;
 - (k) Participating in a government sponsored agricultural program.
- (3) "Nonagricultural activities," for the purposes of this chapter, means residential, commercial or industrial property development and use not associated with the production of agricultural products.

(4) "Improper or negligent operation" means that the agricultural operation is not undertaken in conformity with federal, state and local laws and regulations or permits, and adversely affects the public health and safety.

[22-4502, added 1981, ch. 177, sec. 1, p. 311; am. 1997, ch. 341, sec. 1, p. 1025; am. 1999, ch. 377, sec. 1, p. 1035; am. 2011, ch. 229, sec. 1, p. 623.]

22-4503. AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF NOT A NUISANCE -- EXCEPTION. No agricultural operation, agricultural facility or expansion thereof shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after it has been in operation for more than one (1) year, when the operation, facility or expansion was not a nuisance at the time it began or was constructed. The provisions of this section shall not apply when a nuisance results from the improper or negligent operation of an agricultural operation, agricultural facility or expansion thereof.

[22-4503, added 1981, ch. 177, sec. 1, p. 312; am. 1999, ch. 377, sec. 2, p. 1035; am. 2011, ch. 229, sec. 2, p. 624.]

22-4504. LOCAL ORDINANCES. No city, county, taxing district or other political subdivision of this state shall adopt any ordinance or resolution that declares any agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices to be a nuisance, nor shall any zoning ordinance that requires abatement as a nuisance or forces the closure of any such agricultural operation or agricultural facility be adopted. Any such ordinance or resolution shall be void and shall have no force or effect. Zoning and nuisance ordinances shall not apply to agricultural operations and agricultural facilities that were established outside the corporate limits of a municipality and then were incorporated into the municipality by annexation. The county planning and zoning authority may adopt a nuisance waiver procedure to be recorded with the county recorder or appropriate county recording authority pursuant to residential divisions of property.

[22-4504, added 1994, ch. 107, sec. 2, p. 239; am. 1997, ch. 341, sec. 2, p. 1026; am. 2011, ch. 229, sec. 3, p. 625.]

22-4505. NUISANCE ACTIONS. (1) An agricultural operation, agricultural facility or expansion thereof shall not be found to be a nuisance under the circumstances described in section [22-4503](#), Idaho Code.

(2) An agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices or in compliance with a state or federally issued permit shall not be found to be a public or private nuisance. The provisions of this subsection shall not apply when a nuisance results from the improper or negligent operation of an agricultural operation, agricultural facility or expansion thereof.

[22-4505, added 2011, ch. 229, sec. 4, p. 625.]

22-4506. SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

[22-4506, added 2011, ch. 229, sec. 5, p. 625.]