

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 978
Committee Substitute Favorable 5/1/91
Senate Judiciary I Committee Substitute Adopted 6/24/92

Short Title: Forestry/Limit Nuisance Liability.

(Public)

Sponsors:

Referred to:

April 19, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT FORESTRY OPERATIONS FROM NUISANCE SUITS
3 UNDER CERTAIN CIRCUMSTANCES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 57 of Chapter 106 of the General Statutes reads as
6 rewritten:

7 "ARTICLE 57.
8 "NUISANCE LIABILITY OF AGRICULTURAL AND FORESTRY
9 OPERATIONS.

10 "§ 106-700. Legislative determination and declaration of policy.

11 It is the declared policy of the State to conserve and protect and encourage the
12 development and improvement of its agricultural land and forestland for the production
13 of ~~food~~ food, fiber, and other ~~agricultural~~ products. When ~~nonagricultural~~ other land uses
14 extend into agricultural and forest areas, agricultural and forestry operations often
15 become the subject of nuisance suits. As a result, agricultural and forestry operations are
16 sometimes forced to ~~ease operations~~ cease. Many others are discouraged from making
17 investments in farm and forest improvements. It is the purpose of this Article to reduce
18 the loss to the State of its agricultural and forestry resources by limiting the
19 circumstances under which an agricultural or forestry operations ~~operation~~ may be
20 deemed to be a nuisance.

21 "§ 106-701. When agricultural and forestry operation, etc., not constituted
22 nuisance by changed conditions in locality.

1 (a) No agricultural or forestry operation or any of its appurtenances shall be or
2 become a nuisance, private or public, by any changed conditions in or about the locality
3 thereof after the same has been in operation for more than one year, when such
4 operation was not a nuisance at the time the operation began; provided, that the
5 provisions of this subsection shall not apply whenever a nuisance results from the
6 negligent or improper operation of any such agricultural or forestry operation or its
7 appurtenances.

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

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

13 (c) The provisions of subsection (a) shall not affect or defeat the right of any
14 person, firm, or corporation to recover damages for any injuries or damages sustained
15 by ~~them~~ him on account of any pollution of, or change in condition of, the waters of any
16 stream or on the account of any overflow of lands of any such person, firm, or
17 corporation.

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

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

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