

AGRICULTURAL PROTECTION ACT

AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

This act modifies the County Code relating to agricultural protection areas and the Utah Criminal Code relating to nuisances. The act extends the sound agricultural practices defense to criminal actions for public nuisance.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

17-41-403, as last amended by Chapter 383, Laws of Utah 1997

76-10-803, as last amended by Chapter 1, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17-41-403** is amended to read:

17-41-403. Nuisances.

(1) Each political subdivision shall ensure that any of its laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety.

(2) In a civil action for nuisance [~~involving agricultural activities~~] or a criminal action for public nuisance under Section 76-10-803, it is a complete defense if the action involves agricultural activities and those agricultural activities were:

(a) [~~the agricultural activities were~~] conducted within an agriculture protection area; and
(b) [~~the agricultural activities were~~] not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices.

(3) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

Section 2. Section **76-10-803** is amended to read:

76-10-803. "Public nuisance" defined -- Agricultural operations.

(1) A public nuisance is a crime against the order and economy of the state and consists in unlawfully doing any act or omitting to perform any duty, which act or omission:

(a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons;

(b) offends public decency;

(c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal, or basin, or any public park, square, street, or highway;

(d) is a nuisance as defined in Section 78-38-9; or

(e) in any way renders three or more persons insecure in life or the use of property.

(2) An act which affects three or more persons in any of the ways specified in this section is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

(3) (a) Agricultural operations that are consistent with sound agricultural practices are presumed to be reasonable and do not constitute a public nuisance under Subsection (1) unless the agricultural operation has a substantial adverse effect on the public health and safety.

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.