

**PROTECTIONS FOR AGRICULTURAL PRACTICES**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael T. Morley**

Senate Sponsor: Darin G. Peterson

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**LONG TITLE**

**General Description:**

This bill eliminates the presumption that agricultural operations are conducted in accordance with sound agricultural practices, and provides that agricultural operations are not nuisances.

**Highlighted Provisions:**

This bill:

- ▶ states that agricultural activity is not a nuisance if conducted in accordance with sound agricultural practices; and
- ▶ provides an exception for air, water, or land pollution, and hazards to another person.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 76-10-803**, as last amended by Laws of Utah 2002, Chapter 183
- 78-38-7**, as repealed and reenacted by Laws of Utah 1995, Chapter 73
- 78-38-8**, as enacted by Laws of Utah 1981, Chapter 154



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

30 Section 1. Section **76-10-803** is amended to read:

31 **76-10-803. "Public nuisance" defined -- Agricultural operations.**

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

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

36 (b) offends public decency;

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

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

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

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

44 (3) (a) ~~[Agricultural operations that are consistent]~~ Activities conducted in the normal  
45 and ordinary course of agricultural operations, as defined in Section 78-38-8, or conducted in  
46 accordance with sound agricultural practices [are presumed to be reasonable and] do not  
47 constitute a public nuisance under Subsection (1) unless the ~~[agricultural operation has a~~  
48 ~~substantial adverse effect on the public health and safety.]~~ activity:

49 (i) causes air, land, or water pollution that creates a substantial adverse effect on the  
50 public health and safety; or

51 (ii) constitutes an immediate safety hazard to at least one person.

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

55 Section 2. Section **78-38-7** is amended to read:

56 **78-38-7. Agricultural operations -- Nuisance liability.**

57 (1) ~~[Agricultural operations that are consistent]~~ Activities conducted in the normal and  
58 ordinary course of agricultural operations, or conducted in accordance with sound agricultural

59 practices [~~are presumed to be reasonable and~~] do not constitute a nuisance unless the  
60 [~~agricultural operation has~~] activity:

61 (a) causes air, land, or water pollution that creates a substantial adverse effect on the  
62 public health and safety[: or

63 (b) constitutes an immediate safety hazard to at least one person.

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

67 Section 3. Section **78-38-8** is amended to read:

68 **78-38-8. "Agricultural operation" defined.**

69 As used in this [~~act~~] chapter, "agricultural operation" means any [~~facility for the~~]  
70 activity engaged in the commercial production [~~for commercial purposes~~] of crops, orchards,  
71 aquaculture, livestock, poultry, livestock products, [~~or~~] poultry products, and the facilities,  
72 equipment, and property used to facilitate the activity.

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**Legislative Review Note**

as of 1-30-08 9:14 AM

**Office of Legislative Research and General Counsel**

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**H.B. 229 - Protections for Agricultural Practices**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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