



SENATE BILL 711: NC Farm Act of 2018, Sec. 10: Amend North Carolina Right to Farm Law

2017-2018 General Assembly

Committee:		Date:	July 3, 2018
Introduced by:		Prepared by:	Chris Saunders Staff Attorney
Analysis of:	Sec. 10 of S.L. 2018-113		

OVERVIEW: *Section 10.(a) of S.L. 2018-113 provides that no nuisance action may be filed against an agricultural or forestry operation unless all of the following apply:*

- *The plaintiff is a legal possessor of the real property affected by the conditions alleged to be a nuisance.*
- *The real property affected by the conditions alleged to be a nuisance is located within one half-mile of the source of the activity or structure alleged to be a nuisance.*
- *The action is filed within one year of the establishment of the agricultural or forestry operation or within one year of the operation undergoing a fundamental change.*

Pursuant to existing law, a fundamental change does not include any of the following:

- *A change in ownership or size.*
- *An interruption of farming for a period of no more than three years.*
- *Participation in a government-sponsored agricultural program.*
- *Employment of new technology.*
- *A change in the type of agricultural or forestry product produced.*

This section also repeals a provision allowing nuisance suits that would otherwise be barred if the nuisance results from the negligent or improper operation of an agricultural or forestry operation.

Section 10.(b) prohibits a plaintiff from recovering punitive damages in a private nuisance action where the alleged nuisance emanated from an agricultural or forestry operation that has not been subject to a criminal conviction or a civil enforcement action taken by a State or federal environmental regulatory agency pursuant to a notice of violation for the conduct alleged to be the source of the nuisance within the three years prior to the first act on which the nuisance action is based.

This bill was vetoed by the Governor on June 25, 2018, and that veto was overridden by the General Assembly on June 27, 2018. This section became effective June 27, 2018.

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