

CHAPTER 376
FORMERLY
SENATE BILL NO. 265
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND THE DELAWARE CODE RELATING TO THE RIGHT TO FARM AND PUBLIC AND PRIVATE NUISANCE ACTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1401, Title 3, Delaware Code, by deleting the second sentence found therein, and by substituting in lieu thereof the following:

“For the purpose of this Section, “agricultural operation” shall be defined as set forth in 10 Del. C. §8141(a). In any nuisance action, public or private, against an agricultural operation or its principals or employees, including forestal activity, proof that the agricultural operation, including forestall activity, has existed for one (1) year or more is an absolute defense to the nuisance action, if the operation is in compliance with all applicable State and federal laws, regulations, and permits. If the operation is in compliance with all applicable State and federal laws, regulations, and permits, it shall be presumed to be conducted in a manner consistent with good agricultural practice. No State or local law enforcement agency may bring a criminal or civil action against an agricultural operation for an activity that is in compliance with all applicable State and federal laws, regulations, and permits.”

Section 2. Amend §8141(a), Title 10, Delaware code by adding new paragraphs (11) and (12), to read as follows:

“(11) Grain elevators, bins, feed mills, silos, and seed cleaners;
(12) Transportation of an agricultural product to or from a market storage area, or to or from any agricultural related infrastructure as identified in paragraph (11) of this subsection.”

Section 3. Amend §8141(e), Title 10, Delaware Code by deleting the phrase “negligent or improper operation of any such agricultural operation or any of its appurtenances”, and by substituting in lieu thereof the phrase “failure to conduct the operation in a manner consistent with good agricultural practice as defined in §1401 of Title 3”.

Approved July 12, 2010