



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: NREW DP 5-4-0-0 | 3rd Read 31-24-2-0-3

Senate: NREW DP 4-3-0-0 | 3rd Read 16-11-3-0

HB 2124: agricultural operations; water; protection; definition

Sponsor: Representative Smith, LD 29

Senate Engrossed

Overview

Revises the definition of *agricultural operations* and modifies the basis for awarding costs and attorney fees in nuisance actions filed against an agricultural operation.

History

Current law describes what constitutes a public nuisance, who may bring an action in superior court to abate, enjoin or prevent the activity, and classifies knowingly committing or failing to remove a public nuisance as a class 2 misdemeanor ([A.R.S. § 13-2917](#)).

Agricultural operations are presumed to be reasonable and do not constitute a nuisance if the operation: 1) is conducted on farmland; 2) is consistent with good agricultural practices; 3) was established before surrounding nonagricultural uses; and 4) does not have a substantial adverse effect on public health and safety. Current law also specifies that agricultural operations undertaken in conformity with federal, state and local laws are presumed to be good agricultural operations ([A.R.S. § 3-112](#)).

In a nuisance action filed against an agricultural operation conducted on farmland, the court has discretionary authority to award costs and expenses, including reasonable attorney fees to the prevailing party. If specific circumstances apply, the court is required to award reasonable costs and attorney fees.

Provisions

1. Requires a court to award costs and attorney fees to an agricultural operation if a nuisance action is filed against an agricultural operation conducted on farmland and the court determines the action was filed to take or reduce the water used for its operation. (Sec. 2)
2. Modifies the definition of *agricultural operations* to include water use by an owner, lessee, agent, independent contractor and supplier conducted on any facility for the production of crops, livestock, poultry, livestock products or poultry products or for the purpose of agritourism. (Sec. 1)
3. Makes technical and conforming changes. (Sec. 1 and 2)

Senate Amendments

1. Removes the ability for the Attorney General to bring an action in superior court to abate, enjoin and prevent an activity described as a public nuisance.

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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