

HOUSE BILL 700

By Holt

AN ACT to amend Tennessee Code Annotated, Title 43,
Chapter 26, relative to the right to farm.

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

SECTION 1. Tennessee Code Annotated, Section 43-26-102(2), is amended by deleting the subdivision and substituting instead the following:

(2) "Farm operation":

(A) Means a condition or activity that occurs on a farm in connection with the commercial production of farm products or nursery stock as defined in § 70-8-303; and

(B) Includes, but is not limited to:

(i) Marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor; and

(ii) The sale of certain items, such as art, literature, artifacts, furniture, food, beverages and other items that are incidental to the farm, and constitute less than a majority amount of:

(a) Production or sales; or

(b) Annual revenues from such sales;

SECTION 2. Tennessee Code Annotated, Title 43, Chapter 26, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) Notwithstanding any law to the contrary, any local ordinance shall be null and void that is directed at persons, property, farm operations or activity on land zoned agricultural that seeks to restrict the free exercise of rights guaranteed by the Constitution of Tennessee or the United States Constitution.

(b) Any county that violates this section shall be liable to the aggrieved persons in an amount equal to the total amount of fines and penalties that the county seeks to impose on such aggrieved persons, plus any attorney fees incurred by such aggrieved persons.

(c)

(1) Any official or employee of a county who violates this section, or whose interpretation or enforcement of duties operates contrary to this section, shall:

(A) Be personally liable to aggrieved persons in an amount equal to the total amount of fines and penalties that such county official or employee seeks to impose on such aggrieved persons, plus any attorney fees incurred by such aggrieved persons; and

(B) Be subject to the penalties that the official or employee seeks to impose, whether civil or criminal.

(2) No such official or employee shall be protected:

(A) By sovereign immunity for causes of action in trespass or tort;
or

(B) By the Tennessee Governmental Tort Liability Act, compiled in title 29, chapter 20.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.