

Introduced 2/6/17
 Public Hearing 2/21/17
 Council Action 3/6/17
 Executive Action 3/8/17
 Effective Date 5/8/17

County Council of Howard County, Maryland

2017 Legislative Session

Legislative Day No. 2

Bill No. 15-2017

Introduced by: The Chairperson at the request of the County Executive
 and cosponsored by Greg Fox

AN ACT adding the Howard Soil Conservation District's opinion as an option for the Health Department to consider in determining whether a nuisance condition exists in agricultural operations; further stating the purpose of the Howard County Right-To-Farm Act; recommending certain legal fees under certain conditions; and generally related to the Howard county Right-To-Farm Act.

Introduced and read first time February 6, 2017. Ordered posted and hearing scheduled.

By order Jessica Feldmark
 Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on February 21, 2017.

By order Jessica Feldmark
 Jessica Feldmark, Administrator

This Bill was read the third time on March 6, 2017 and Passed , Passed with amendments , Failed .

By order Jessica Feldmark
 Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7th day of March, 2017 at 3:00 a.m./p.m.

By order Jessica Feldmark
 Jessica Feldmark, Administrator

Approved Vetoed by the County Executive March 8, 2017

Allan H. Kittleman
 Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 By amending Title 12 "Health and Social Services"

5 Section. 12.110. Nuisances.

6 Subsection (d)

7 Section 12.111. Nuisance suits against agricultural operations.

8 Subsections (b) and (g)

9 **Title 12. Health and Social Services.**

10 **Subtitle 1. Health Code.**

11
12 **Section. 12.110. Nuisances.**

13 (d) Declaration of Nuisance. If the Health Officer believes that a nuisance condition exists as
14 defined in subsection (a) above, the Health Officer may declare the existence of a
15 nuisance. In determining whether a nuisance condition exists in connection with an
16 agricultural operation, as defined in this subtitle, the Health Officer shall apply the
17 criteria provided in subsection 12.110(a) and subsection 12.111(d) of this subtitle.
18 Further, the Health Officer ~~[[may]]~~ SHALL consider the professional opinion of the
19 Howard County Cooperative Extension Service of the University of Maryland OR THE
20 HOWARD SOIL CONSERVATION DISTRICT in determining whether the agricultural
21 operation being investigated is conducted in accordance with generally accepted
22 agricultural management practices.

23 **Section 12.111. Nuisance suits against agricultural operations.**

24 (b) *Public Policy.* The practice of agriculture has been a mainstay of the economy of Howard
25 County since the land was settled. ~~[[It]]~~ AGRICULTURE is a valued and respected way of life, and
26 the preferred land use in the Rural Conservation (RC) Zoning District, a valued land use in the
27 Rural Residential (RR) Zoning District and on property that has an agricultural use assessment as
28 determined by the State Department of Assessments and Taxation. The Howard County Council
29 hereby finds and declares that the practice of farming in Howard County should be protected and
30 encouraged.

1 IN ADDITION, AS HOWARD COUNTY CONTINUES TO GROW, RESIDENTS ARE INCREASINGLY
2 INTERACTING MORE WITH THE AGRICULTURAL COMMUNITY MAKING IT EXTREMELY IMPORTANT
3 FOR CLEAR COMMUNICATION AND MUTUAL RESPECT FOR ONE ANOTHER. AGRICULTURAL
4 OPERATIONS, IN MANY CASES, INVOLVE NOISE, DUST, ODOR, SLOW MOVING VEHICLES, AND EARLY
5 MORNING/LATE EVENING ACTIVITY. HOWARD COUNTY FARMERS ARE COMMITTED TO PROVIDING A
6 SAFE QUALITY PRODUCT FOR CONSUMERS, PRESERVING THE ENVIRONMENT FOR THE NEXT
7 GENERATION, AND BEING GOOD NEIGHBORS. AT THE SAME TIME THESE ACTIVITIES MAY HAVE
8 SOME EFFECT ON ADJOINING PROPERTIES. IT IS IMPORTANT THAT BOTH THE AGRICULTURAL
9 COMMUNITY AND NEIGHBORING RESIDENTS RESPECT ONE ANOTHER SO THAT AGRICULTURE CAN
10 CONTINUE TO SERVE AS THE FOUNDATION OF HOWARD COUNTY.

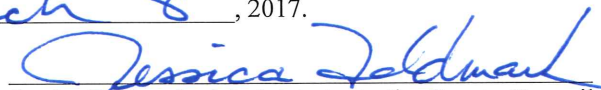
11 (g) *[[Legal Actions in Bad Faith or without Substantial Justification. In any civil action, if a*
12 *court finds that the conduct of a plaintiff in maintaining a nuisance case against the owner of an*
13 *agricultural operation was in bad faith or without substantial justification, the court may require*
14 *the plaintiff to pay to the owner of the agricultural operation the costs of the proceeding and the*
15 *reasonable expenses, including reasonable attorney's fees, incurred by the owner of the*
16 *agricultural operation in defending against the legal action.]]*) *LEGAL COSTS. IN ANY CIVIL*
17 *ACTION, IF A COURT FINDS THAT THE AGRICULTURAL OPERATION ALLEGED TO BE A NUISANCE IS*
18 *FOUND NOT TO BE A NUISANCE AND THAT THE SUIT WAS BROUGHT IN BAD FAITH OR WITHOUT*
19 *SUBSTANTIAL JUSTIFICATION, THE COURT SHOULD REQUIRE THE PLAINTIFF TO PAY THE COSTS OF*
20 *THE PROCEEDINGS AND THE REASONABLE EXPENSES ASSOCIATED WITH THE LITIGATION,*
21 *INCLUDING REASONABLE ATTORNEY'S FEES, INCURRED BY THE OWNER, OPERATOR OR BOTH, THE*
22 *OWNER AND OPERATOR, OF THE AGRICULTURAL OPERATION IN DEFENDING AGAINST THE LEGAL*
23 *ACTION.*

24

25 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
26 ***this Act shall become effective 61 days after its enactment.***

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on March 8, 2017.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill 15-2017

BY: Mary Kay Sigaty
Calvin Ball
Greg Fox
Jon Weinstein

Legislative Day No: 5
Date: March 6, 2017

Amendment No. 1

1 (This amendment would add the Howard Soil Conservation District as an additional opinion for
2 the Health Department to consider in determining whether a nuisance condition exists in
3 connection with an agricultural operation).
4
5
6

7 On the title page, in line 1 of the title, after “ACT”, insert “adding the Howard Soil
8 Conservation District’s opinion as an option for the Health Department to
9 consider in determining whether a nuisance condition exists in agricultural
10 operations;”.
11

12 On page 1, immediately following line 4, insert the following:

13 “Section. 12.110. Nuisances.
14 Subsection (d)”.
15

16 On page 1, immediately following line 9, insert the following:

17 **“Section. 12.110. Nuisances.**

18 (d) Declaration of Nuisance. If the Health Officer believes that a nuisance
19 condition exists as defined in subsection (a) above, the Health Officer may
20 declare the existence of a nuisance. In determining whether a nuisance
21 condition exists in connection with an agricultural operation, as defined in
22 this subtitle, the Health Officer shall apply the criteria provided in
23 subsection 12.110(a) and subsection 12.111(d) of this subtitle. Further, the
24 Health Officer [[may]] SHALL consider the professional opinion of the

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Howard County Cooperative Extension Service of the University of Maryland OR THE HOWARD SOIL CONSERVATION DISTRICT in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.

ADOPTED 3/6/17
FAILED _____
SIGNATURE Jessica Feldman

Amendment 2 to Council Bill No. 15-2017

BY: The Chairperson at the
request of the County Executive
and cosponsored by Greg Fox

Legislative Day No. 5
Date: March 6, 2017

Amendment No. 2

(This amendment clarifies that certain expenses and fees must be reasonable.)

- 1 On page 2, in line 6, before “EXPENSES” insert “REASONABLE” and, in the same line, before
- 2 “ATTORNEY’S” insert “REASONABLE”.

ADOPTED

3/6/17

FAILED

SIGNATURE

Jessica Feldman

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
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Jessica Feldmark, Administrator

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By order _____
Jessica Feldmark, Administrator

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By order _____
Jessica Feldmark, Administrator

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By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, County Executive

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