

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

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 _____, 2017. Ordered posted and hearing scheduled.

By order _____
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 _____, 2017.

By order _____
Jessica Feldmark, Administrator

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

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2017 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

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.***