

CHAPTER 116

AGRICULTURE

SENATE BILL 99-043

BY SENATORS Chlouber, Andrews, Musgrave, Owen, Powers, and Tebedo;
also REPRESENTATIVES Miller, Paschall, Pfiffner, Scott, Stengel, and Tochtrop.

AN ACT

CONCERNING THE AWARD OF COSTS IN ACTIONS FOR NUISANCE AGAINST AGRICULTURAL OPERATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 35-3.5-102 (1), Colorado Revised Statutes, is amended to read:

35-3.5-102. Agricultural operation deemed not nuisance - attorney fees.

(1) (a) An agricultural operation is not, nor shall it become, a private or public nuisance by any changed conditions in or about the locality of such operation after it has been in operation for more than one year if such operation was not a nuisance at the time the operation began; except that the provisions of this subsection (1) shall not apply in the case of a negligent operation or when a change in operation would result in a private or public nuisance or when a substantial increase in the size of operations occurs.

(b) THE COURT MAY, PURSUANT TO SECTIONS 13-16-122 AND 13-17-102, C.R.S., AWARD EXPERT FEES, REASONABLE COURT COSTS, AND REASONABLE ATTORNEY FEES TO THE PREVAILING PARTY IN ANY ACTION BROUGHT TO ASSERT THAT AN AGRICULTURAL OPERATION IS A PRIVATE OR PUBLIC NUISANCE. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS RESTRICTING, SUPERSEDING, ABROGATING, OR CONTRAVENING IN ANY WAY THE PROVISIONS OF SECTIONS 25-7-138 (5), C.R.S., AND 25-8-501.1 (8), C.R.S.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1999, and shall apply to all actions commenced on or after said date.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 16, 1999