

SENATE BILL NO. 207

1
 2 INTRODUCED BY *Merrill Stone HARP Holden* *Cole* *Haynes*
 3 *Tweet Miller Kurt Stovall* *MORCEN* *Knox Wagner* *Ban*
 4 *ALLESTAD* *Chasson* *Benedict* *D. Brugh* *Jenkins* *Garrett* *Katung*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PROTECTION FOR AGRICULTURAL ACTIVITIES
 6 FROM GOVERNMENTAL ZONING AND NUISANCE RESTRICTIONS." *Rose* *Towert*

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8
 9 **NEW SECTION. Section 1. Agricultural activities -- legislative finding and purpose.** (1) The
 10 legislature finds that agricultural lands and the ability and right of farmers and ranchers to produce a safe,
 11 abundant, and secure food and fiber supply have been the basis of economic growth and development of
 12 all sectors of Montana's economy. In order to sustain Montana's valuable farm economy and land bases
 13 associated with it, farmers and ranchers must be encouraged and have the right to stay in farming.

14 (2) It is therefore the intent of the legislature to protect agricultural activities from governmental
 15 zoning and nuisance ordinances.

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 17 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 3], the following definitions
 18 apply:

19 (1) "Agricultural activity" means a condition or activity that occurs on a farm in connection with
 20 the commercial production of farm products and includes but is not limited to:

- 21 (a) produce marketed at roadside stands or farm markets;
- 22 (b) noise;
- 23 (c) odors;
- 24 (d) dust;
- 25 (e) fumes;
- 26 (f) operation of machinery and irrigation pumps;
- 27 (g) movement of water for agricultural activities, including but not limited to use of existing county
 28 road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities;
- 29 (h) ground and aerial application of seed, fertilizers, conditioners, and plant protection products;
- 30 (i) employment and use of labor;

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- 1 (j) roadway movement of equipment and livestock;
- 2 (k) protection from damage from wildlife;
- 3 (l) prevention of trespass;
- 4 (m) construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways,
5 and similar features and maintenance of stream banks and water courses; and
- 6 (n) conversion from one agricultural activity to another.
- 7 (2) "Farm" means the land, buildings, fresh water ponds, fresh water culturing and growing
8 facilities, and machinery used in the commercial production of farm products.
- 9 (3) "Farm product" means those plants and animals useful to humans and includes but is not
10 limited to:
- 11 (a) forages and sod crops;
- 12 (b) dairy and dairy products;
- 13 (c) poultry and poultry products;
- 14 (d) livestock, including breeding and grazing of livestock and recreational equine use;
- 15 (e) fruits;
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- 18 (h) seeds;
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- 21 (k) fresh water fish and fish products;
- 22 (l) apiaries;
- 23 (m) equine and other similar products; or
- 24 (n) any other product that incorporates the use of food, feed, fiber, or fur.

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26 **NEW SECTION. Section 3. Local ordinances.** A city, county, taxing district, or other political
27 subdivision of this state may not adopt an ordinance or resolution that prohibits any existing agricultural
28 activities or forces the termination of any existing agricultural activities. Zoning and nuisance ordinances
29 may not apply to agricultural activities that were established outside the corporate limits of a municipality
30 and then incorporated into that municipality by annexation.

1 **NEW SECTION.** **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be
2 codified as an integral part of Title 76, chapter 2, and the provisions of Title 76, chapter 2, apply to
3 [sections 1 through 3].
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5 **NEW SECTION.** **Section 5. Saving clause.** [This act] does not affect rights and duties that
6 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
7 act].
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9 **NEW SECTION.** **Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are
10 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its
11 applications, the part remains in effect in all valid applications that are severable from the invalid
12 applications.
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-END-

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2 INTRODUCED BY MESAROS, ROSE, HARP, HOLDEN, EMERSON, COLE, MOHL, HARGROVE, TVEIT,
3 MILLER, HERTEL, STOVALL, MERCER, KNOX, WAGNER, BAER, AKLESTAD, CRISMORE, BENEDICT,
4 DEBRUYCKER, JENKINS, GROSFIELD, KEATING, TOEWS

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- 6 (m) construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways,
- 7 and similar features and maintenance of stream banks and water courses; ~~and~~
- 8 (n) conversion from one agricultural activity to another, PROVIDED THAT THE CONVERSION DOES
- 9 NOT ADVERSELY IMPACT ADJACENT PROPERTY OWNERS;
- 10 (O) TIMBER HARVESTING, THINNING, AND TIMBER REGENERATION;
- 11 (P) BURNING AND STUBBLE AND SLASH DISPOSAL; AND
- 12 (Q) PLANT NURSERY AND COMMERCIAL GREENHOUSE ACTIVITIES.
- 13 (2) "Farm" means the land, buildings, fresh water ponds, fresh water culturing and growing
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- 15 (3) "Farm product" means those plants and animals useful to humans and includes but is not
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- 17 (a) forages and sod crops;
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- 19 (c) poultry and poultry products;
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1 **NEW SECTION. Section 3. Local ordinances.** A city, county, taxing district, or other political
2 subdivision of this state may not adopt an ordinance or resolution that prohibits any existing agricultural
3 activities or forces the termination of any existing agricultural activities. Zoning and nuisance ordinances
4 may not ~~apply to~~ **PROHIBIT** agricultural activities that were established outside the corporate limits of a
5 municipality and then incorporated into that municipality by annexation.

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9 [sections 1 through 3].

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11 **NEW SECTION. Section 5. Saving clause.** [This act] does not affect rights and duties that
12 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
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15 **NEW SECTION. Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are
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14 all sectors of Montana's economy. In order to sustain Montana's valuable farm economy and land bases
15 associated with it, farmers and ranchers must be encouraged and have the right to stay in farming.

16 (2) It is therefore the intent of the legislature to protect agricultural activities from governmental
17 zoning and nuisance ordinances.
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19 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions
20 apply:

21 (1) "Agricultural activity" means a condition or activity that occurs on ~~a farm~~ LAND CLASSIFIED
22 AS AGRICULTURAL LAND FOR TAXATION PURPOSES AND THAT OCCURS in connection with the
23 commercial production of farm products and includes but is not limited to:

24 (a) produce marketed at roadside stands or farm markets;

25 (b) noise;

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- 7 (m) construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways,
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- 15 ~~facilities, and machinery used in the commercial production of farm products.~~
- 16 (3) ~~"Farm product"~~ "COMMERCIAL PRODUCTION OF FARM PRODUCTS" means these THE
- 17 MARKETING OF plants and OR animals useful to humans and BY THE OWNER, OWNER'S AGENT, OR
- 18 LESSEE OF LAND THAT PROVIDES AN ANNUAL GROSS INCOME OF NOT LESS THAN \$1,500. THE TERM
- 19 includes but is not limited to:
- 20 (a) forages and sod crops;
- 21 (b) dairy and dairy products;
- 22 (c) poultry and poultry products;
- 23 (d) livestock, including breeding and grazing of livestock and recreational equine use;
- 24 (e) fruits;
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-END-



HOUSE STANDING COMMITTEE REPORT

March 10, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 207 (third reading copy -- blue) be concurred in as amended.

Signed: Joe Barnett
Joe Barnett, Chair

Carried by: Rep. Rose

And, that such amendments read:

1. Page 1, line 21.
Following: second "activity"
Insert: "that provides an annual gross income of not less than \$1,500 or"
2. Page 1, line 22.
Following: "AGRICULTURAL"
Insert: "or forest"
Strike: "AND THAT OCCURS"
Insert: ". The condition or activity must occur"
3. Page 2, line 16.
Following: "THE"
Insert: "growing, raising, or"
4. Page 2, line 18.
Following: "\$1,500"
Insert: "or that occurs on land that is classified as agricultural or forest land for taxation purposes".

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Committee Vote:
Yes 17, No 1.

HOUSE

5. Page 2, line 23.
Following: "breeding"
Insert: ", feeding,"

6. Page 3, line 7.
Following: second "activities"
Insert: "outside the boundaries of an incorporated city or town"

-END-

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24 MUST OCCUR in connection with the commercial production of farm products and includes but is not
25 limited to:

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9 subdivision of this state may not adopt an ordinance or resolution that prohibits any existing agricultural
10 activities or forces the termination of any existing agricultural activities OUTSIDE THE BOUNDARIES OF
11 AN INCORPORATED CITY OR TOWN. Zoning and nuisance ordinances may not ~~apply to~~ PROHIBIT
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