



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1448

~~Arizona department of agriculture; continuation-~~
(NOW: agricultural operations; nuisance; costs; damages)

As passed by the Senate, S.B. 1448 continued the Arizona Department of Agriculture (AZDA) for eight years.

The House of Representatives adopted a strike-everything amendment that does the following:

Purpose

Outlines authorized costs, expenses and compensatory damages awarded by the court in a nuisance action. Prohibits the declaration of an agricultural operation conducted on farmland to be a nuisance if the operation meets outlined criteria.

Background

Under current statute, agricultural operations are presumed to be reasonable and do not constitute a nuisance if the operations are on farmland, are consistent with good agricultural practices and the operations were established prior to surrounding nonagricultural uses, unless the operations have a substantial adverse effect on public health and safety.

Additionally, agricultural operations are presumed to be good agricultural practice that does not adversely affect public health and safety if the operations conform to federal, state and local laws and regulations ([A.R.S. § 3-112](#)).

Statute establishes the Agricultural Best Management Practices Committee (AgBMP Committee) for regulated agricultural activities and charges the AgBMP Committee with adopting, by rule, an agricultural general permit specifying best management practices, including recordkeeping and reporting requirements, for regulated agricultural activities to reduce PM₁₀ emissions. BMPs are practical, economically feasible and effective techniques, verified by scientific research to reduce PM₁₀ emissions from specifically outlined agricultural activities ([A.R.S. § 49-457](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Authorizes the court, in a nuisance action against an agricultural operation conducted on farmland, to award costs and expenses, including reasonable attorney fees, to the prevailing party.

2. Directs the court to award reasonable costs and attorney fees to the other party if the court determines that a party filed a nuisance action that:
 - a) was not filed in good faith;
 - b) was not grounded in fact or based in law; or
 - c) was filed for an improper purpose, such as to harass the other party, to cause an unnecessary delay or to increase the cost of litigation to the other party.
3. Prohibits the court from awarding punitive damages for a nuisance action unless the alleged nuisance emanated from an agricultural operation that has been subject to a criminal conviction or a civil enforcement action taken by a state or federal environmental or health regulatory agency pursuant to a notice of violation for the conduct alleged to be the source of the nuisance.
4. Prohibits a city, town, county, special taxing district or other political subdivision from declaring an agricultural operation conducted on farmland to be a nuisance if the agricultural operation's practices are lawful, customary, reasonable, safe and necessary to the agriculture industry as the practices pertain to an agricultural operation's practices determined by the AgBMP Committee, the AZDA or the Arizona Department of Environmental Quality.
5. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

- Adopted the strike-everything amendment relating to agricultural nuisance actions.

House Action

LARA	3/15/21	DPA/SE	6-5-0-0
3 rd Read	4/1/21		34-26-0

Prepared by Senate Research

April 1, 2021

KN/gs