

By: Representative Holland

To: Agriculture

HOUSE BILL NO. 909

1 AN ACT TO AMEND SECTION 95-3-29, MISSISSIPPI CODE OF 1972, TO
2 REVISE DEFINITIONS UNDER THE FREEDOM TO FARM ACT; AND FOR RELATED
3 PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 95-3-29, Mississippi Code of 1972, is
6 amended as follows:

7 95-3-29. (1) In any nuisance action, public or private,
8 against an agricultural operation, including forestry activity,
9 proof that said agricultural operation, including forestry
10 activity, has existed for one (1) year or more is an absolute
11 defense to such action, if the conditions or circumstances alleged
12 to constitute a nuisance have existed substantially unchanged
13 since the established date of operation.

14 (2) The following words and phrases as used in this section
15 shall have the meanings given them in this section:

16 (a) "Agricultural operation" includes, without
17 limitation, any facility for the production and processing of
18 crops, livestock, farm-raised fish and fish products, livestock
19 products, wood, timber or forest products, and poultry or poultry
20 products for commercial or industrial purposes. "Agricultural
21 operation" also includes the use of farm machinery, equipment,
22 devices, materials and structures designed for agricultural use
23 and the showing, testing and evaluating of animals, fowl or plants
24 for breeding or sales, or both, in accordance with traditional
25 farm practices.

26 (b) "Established date of operation" means the date on
27 which the agricultural operation, including forestry activity,

28 commenced operation. If the physical facilities of the
29 agricultural operation, including forestry activity, are
30 subsequently expanded, the established date of operation for each
31 expansion is deemed to be a separate and independent "established
32 date of operation" established as of the date of commencement of
33 the expanded operation and the commencement of expanded operation
34 shall not divest the agricultural operation of a previously
35 established date of operation.

36 (c) "Forestry activity" means any activity associated
37 with the reforesting, growing, managing, protecting and harvesting
38 of timber, wood and forest products including nongame species.

39 (d) "Traditional farm practices" means those accepted
40 customs and standards established and followed by similar
41 agricultural operations under similar circumstances.

42 (3) The provisions of this section shall not be construed to
43 affect any provision of the "Mississippi Air and Water Pollution
44 Control Law."

45 (4) This section shall not affect actions commenced prior to
46 July 1, 1980.

47 **SECTION 2.** This act shall take effect and be in force from
48 and after July 1, 2004.