

By: Representative Moore

To: Agriculture

HOUSE BILL NO. 1423
(As Sent to Governor)

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, or products thereof, livestock, or products thereof,
19 farm-raised fish and fish products, livestock products, wood,
20 timber or forest products, fowl or plants for breeding or sales
21 and poultry or poultry products for commercial or industrial
22 purposes. "Agricultural operation" also includes the use of farm
23 machinery, equipment, devices, chemicals, products for
24 agricultural use, materials and structures designed for
25 agricultural use and used in accordance with traditional farm
26 practices.

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

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

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

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

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

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