

By: Representative Byrd

To: Agriculture

HOUSE BILL NO. 1007

1 AN ACT TO AMEND SECTION 69-1-1, MISSISSIPPI CODE OF 1972, TO  
 2 DECLARE THE POLICY OF THE STATE OF MISSISSIPPI TO CONSERVE,  
 3 PROTECT AND ENCOURAGE THE DEVELOPMENT AND IMPROVEMENT OF  
 4 AGRICULTURE AND AGRICULTURAL OPERATIONS CONDUCTED BY  
 5 MISSISSIPPIANS TO MAINTAIN A RIGHT TO FARM USING ALL GENERALLY  
 6 ACCEPTED FARMING AND LIVESTOCK PRODUCTION PRACTICES, INCLUDING THE  
 7 USE OF EVER-CHANGING TECHNOLOGY; TO PRESCRIBE THE DUTIES OF THE  
 8 DEPARTMENT OF AGRICULTURE AND COMMERCE WITH REGARD TO PROTECTING  
 9 AND PROMOTING THOSE RIGHTS; TO AMEND SECTION 95-3-29, MISSISSIPPI  
 10 CODE OF 1972, TO REVISE THE DEFINITION OF "AGRICULTURAL OPERATION"  
 11 UNDER THE "FREEDOM TO FARM ACT" TO INCLUDE THE USE OF SCIENTIFIC  
 12 AND TECHNOLOGICAL ADVANCEMENTS; TO EXEMPT AGRICULTURAL OPERATIONS  
 13 FROM NUISANCE ACTIONS SUBJECT TO CERTAIN CONDITIONS; AND FOR  
 14 RELATED PURPOSES.

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

16 **SECTION 1.** Section 69-1-1, Mississippi Code of 1972, is  
 17 amended as follows:

18 69-1-1. (1) A Department of Agriculture and Commerce is  
 19 created and established under the management and control of a  
 20 public officer to be known as the Commissioner of Agriculture and  
 21 Commerce, who shall have competent knowledge of agriculture,  
 22 mining, manufacturing, statistics and general industries, must be  
 23 an experienced and practical agriculturist; and shall be elected



24 by the people at the time and in the manner that other state  
25 officers are elected.

26 (2) (a) The Legislature declares that it is the policy of  
27 the state to conserve, protect and encourage the development and  
28 improvement of agriculture, agricultural operations and  
29 agricultural lands for the production of food, fuel, fiber and  
30 other agricultural products. Title 69, Mississippi Code of 1972,  
31 shall be construed to protect the rights of farmers to choose  
32 among all generally accepted farming and livestock production  
33 practices, including the use of ever-changing technology.

34 (b) The Department of Agriculture and Commerce shall  
35 promote the growth of agricultural operations by the following  
36 methods:

37 (i) Assisting agricultural operations with the  
38 permit process required to conduct the desired agricultural  
39 practice in Mississippi; and

40 (ii) Serving as liaison between agricultural  
41 businesses, federal and state agencies, its political subdivisions  
42 and local units of government.

43 **SECTION 2.** Section 95-3-29, Mississippi Code of 1972, is  
44 amended as follows:

45 95-3-29. (1) (a) In any nuisance action, public or  
46 private, against an agricultural operation, including forestry  
47 activity, proof that the agricultural operation, including  
48 forestry activity, has existed for one (1) year or more is an



49 absolute defense to the nuisance action, if the operation is in  
50 compliance with all applicable state and federal permits.

51 (b) An agricultural operation or any of its  
52 appurtenances is not and does not become a nuisance, private or  
53 public, by any changed conditions in the vicinity of the locality  
54 after the agricultural or industrial operation, as the case may  
55 be, has been in operation continuously on the locality for more  
56 than one (1) year if the following conditions exist:

57 (i) There is no significant change in the type of  
58 operation. A significant change in the type of agricultural  
59 operation does not include the following:

60 1. The conversion from one (1) type of  
61 agricultural operation to another type of agricultural operation;

62 2. A change in the ownership or size of the  
63 agricultural operation;

64 3. The enrollment or the reduction or  
65 cessation of participation of the agricultural operation in a  
66 government program; or

67 4. Adoption of new technology by the  
68 agricultural operation; or

69 (ii) The operation would not have been a nuisance  
70 at the time the agricultural operation began in that locality.

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



73           (a) "Agricultural operation" includes, without  
74 limitation, any facility or production site for the production and  
75 processing of crops, or products thereof, livestock, or products  
76 thereof, farm-raised fish and fish products, livestock products,  
77 honeybees, honey and other products of the beehive, wood, timber  
78 or forest products, fowl or plants for breeding or sales and  
79 poultry or poultry products for commercial or industrial purposes.  
80 "Agricultural operation" also includes the use of farm machinery,  
81 equipment, devices, chemicals, products, scientific and  
82 technological advancements for agricultural use, materials and  
83 structures designed for agricultural use and used in accordance  
84 with best agricultural management practices and are in compliance  
85 with any applicable state and federal permits.

86           (b) "Forestry activity" means any activity associated  
87 with the reforesting, growing, managing, protecting and harvesting  
88 of timber, wood and forest products including nongame species.

89           (c) "Traditional farm practices" means those accepted  
90 customs and standards established and followed by similar  
91 agricultural operations under similar circumstances.

92           (d) "Scientific and technological advancements" means  
93 the various farming techniques and methods that extend beyond the  
94 scope of generally accepted customs and standards established and  
95 used in traditional farm practices.



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

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

101           **SECTION 3.** This act shall take effect and be in force from  
102 and after July 1, 2018.

