

# SENATE BILL No. 571

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-17-3-23; IC 32-30-6.

**Synopsis:** Local regulation of farming. Requires the board of animal health to develop and adopt standards for agricultural and management practices. Provides that an agricultural operation shall not be found to be a public or private nuisance if the agricultural operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to the standards developed by the board of animal health. Provides that a political subdivision may not regulate agricultural operations by ordinance or resolution except as provided under a waiver process.

**Effective:** July 1, 2013.

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January 15, 2013, read first time and referred to Committee on Agriculture and Natural Resources.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 571



A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-17-3-23, AS ADDED BY P.L.50-2010,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2013]: Sec. 23. **(a)** The board may adopt rules to establish  
4 standards governing the care of livestock and poultry. The board shall  
5 consider the following when adopting the standards:  
6 (1) The health and husbandry of the livestock and poultry.  
7 (2) Generally accepted ~~farm~~ **agricultural and** management  
8 practices.  
9 (3) Generally accepted veterinary standards and practices.  
10 (4) The economic impact the standards may have on:  
11 (A) livestock and poultry farmers;  
12 (B) the affected livestock and poultry sector; and  
13 (C) consumers.  
14 **(b) The board shall develop standards regarding generally**  
15 **accepted agricultural and management practices for use in**  
16 **adopting rules under subsection (a). In developing these standards,**  
17 **the board shall:**



1 (1) give due consideration to available information and  
 2 written recommendations from the Purdue University office  
 3 of agricultural research programs, the Purdue University  
 4 cooperative extension service in cooperation with the United  
 5 States Department of Agriculture Natural Resources  
 6 Conservation Service and the United States Department of  
 7 Agriculture Farm Service Agency, the Indiana department of  
 8 natural resources, and other professional and industry  
 9 organizations;

10 (2) maintain and make available on the board's Internet web  
 11 site current generally accepted agricultural and management  
 12 practices; and

13 (3) establish a toll free telephone number for receipt of  
 14 information on noncompliance with generally accepted  
 15 agricultural and management practices.

16 SECTION 2. IC 32-30-6-1.7 IS ADDED TO THE INDIANA CODE  
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 18 1, 2013]: Sec. 1.7. As used in this chapter, "generally accepted  
 19 agricultural and management practices" means agricultural and  
 20 management practices conforming to the standards developed by  
 21 the board of animal health under IC 15-17-3-23(b).

22 SECTION 3. IC 32-30-6-9, AS AMENDED BY P.L.23-2005,  
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2013]: Sec. 9. (a) This section does not apply if a nuisance  
 25 results from the negligent operation of an agricultural or industrial  
 26 operation or its appurtenances.

27 (b) The general assembly declares that it is the policy of the state to  
 28 conserve, protect, and encourage the development and improvement of  
 29 its agricultural land for the production of food and other agricultural  
 30 products. The general assembly finds that when nonagricultural land  
 31 uses extend into agricultural areas, agricultural operations often  
 32 become the subject of nuisance suits. As a result, agricultural  
 33 operations are sometimes forced to cease operations, and many persons  
 34 may be discouraged from making investments in farm improvements.  
 35 It is the purpose of this section to reduce the loss to the state of its  
 36 agricultural resources by limiting the circumstances under which  
 37 agricultural operations may be deemed to be a nuisance.

38 (c) An agricultural operation shall not be found to be a public  
 39 or private nuisance if the agricultural operation conforms to  
 40 generally accepted agricultural and management practices.

41 (e) (d) For purposes of this section, the continuity of an agricultural  
 42 or industrial operation shall be considered to have been interrupted

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1 when the operation has been discontinued for more than one (1) year.

2 ~~(d)~~ (e) An agricultural or industrial operation or any of its  
 3 appurtenances is not and does not become a nuisance, private or public,  
 4 by any changed conditions in the vicinity of the locality after the  
 5 agricultural or industrial operation, as the case may be, has been in  
 6 operation continuously on the locality for more than one (1) year if the  
 7 following conditions exist:

8 (1) There is no significant change in the type of operation. A  
 9 significant change in the type of agricultural operation does not  
 10 include the following:

11 (A) The conversion from one type of agricultural operation to  
 12 another type of agricultural operation.

13 (B) A change in the ownership or size of the agricultural  
 14 operation.

15 (C) The:

16 (i) enrollment; or

17 (ii) reduction or cessation of participation;

18 of the agricultural operation in a government program.

19 (D) Adoption of new technology by the agricultural operation.

20 (2) The operation would not have been a nuisance at the time the  
 21 agricultural or industrial operation began on that locality.

22 **(f) Except as provided in subsection (g), a political subdivision**  
 23 **may not regulate agricultural operations by ordinance or**  
 24 **resolution.**

25 **(g) A political subdivision may, by resolution, petition the**  
 26 **director (as defined in IC 15-11-1-3) for a hearing to allow a waiver**  
 27 **to adopt an ordinance due to special circumstances relating to**  
 28 **agricultural operations. If a petition is received under this**  
 29 **subsection, the director shall hold a public hearing to consider**  
 30 **allowing the waiver requested. The public hearing must be**  
 31 **conducted in an informal manner. IC 4-21.5 does not apply to a**  
 32 **public hearing under this subsection.**

33 **(h) The department of agriculture may adopt rules under**  
 34 **IC 4-22-2 to implement this section.**

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