

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 467
Second Edition Engrossed 4/10/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H467-PCS30404-RI-18

Short Title: Agriculture and Forestry Nuisance Remedies.

(Public)

Sponsors:

Referred to:

March 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE REMEDIES AVAILABLE IN PRIVATE NUISANCE
3 ACTIONS AGAINST AGRICULTURAL AND FORESTRY OPERATIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 57 of Chapter 106 of the General Statutes is amended by
6 adding a new section to read:

7 "§ 106-702. Limitations on private nuisance actions against agricultural and forestry
8 operations.

9 (a) The compensatory damages that may be awarded to a plaintiff for a private nuisance
10 action where the alleged nuisance emanated from an agricultural or forestry operation shall be
11 as follows:

12 (1) If the nuisance is a permanent nuisance, compensatory damages shall be
13 measured by the reduction in the fair market value of the plaintiff's property
14 caused by the nuisance, but not to exceed the fair market value of the
15 property.

16 (2) If the nuisance is a temporary nuisance, compensatory damages shall be
17 limited to the diminution of the fair rental value of the plaintiff's property
18 caused by the nuisance.

19 (b) If any plaintiff or plaintiff's successor in interest brings a subsequent private
20 nuisance action against any agricultural or forestry operation, the combined recovery from all
21 such actions shall not exceed the fair market value of his or her property. This limitation
22 applies regardless of whether the subsequent action or actions were brought against a different
23 defendant than the preceding action or actions.

24 (c) This Article shall apply to any private nuisance claim brought against any party
25 based on that party's contractual or business relationship with an agricultural or forestry
26 operation.

27 (d) This Article does not apply to any cause of action brought against an agricultural or
28 forestry operation for negligence, trespass, personal injury, strict liability, or other cause of
29 action for tort liability other than nuisance, nor does this Article prohibit or limit any request
30 for injunctive relief or punitive damages that are otherwise available."

31 SECTION 2.(a) This act is effective when it becomes law and applies to causes of
32 action commenced or brought on or after that date.

33 SECTION 2.(b) If any section or provision of this act is declared unconstitutional
34 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
35 than the part declared to be unconstitutional or invalid.



* H 4 6 7 - P C S 3 0 4 0 4 - R I - 1 8 *