

CF HB 562

By: Senator Colburn

Introduced and read first time: February 12, 1997

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 14, 1997

Committee Report: Favorable

Senate action: Adopted

Read second time: February 26, 1997

CHAPTER ____

1 AN ACT concerning

2 **Dorchester County - Right to Farm Law**

3 FOR the purpose of authorizing the County Commissioners of Dorchester County to
4 adopt an ordinance to protect the right to farm and to engage in agricultural or
5 forestry operations; authorizing the County Commissioners to provide for persons
6 who engage in agricultural or forestry operations to be immune from private
7 nuisance actions involving agricultural or forestry operations in certain
8 circumstances; authorizing the County Commissioners to establish a grievance
9 committee to arbitrate disputes involving agricultural or forestry operations;
10 authorizing the County Commissioners to require a person claiming a nuisance
11 involving agricultural or forestry operations to seek and obtain relief from the
12 grievance committee; authorizing the County Commissioners to require a person
13 claiming a nuisance to pay reasonable expenses, including attorney fees, in certain
14 circumstances; authorizing the County Commissioners to require a transferor of real
15 property to provide certain information to the transferee in certain circumstances;
16 and generally relating to the authority of the County Commissioners to protect
17 agricultural or forestry operations in Dorchester County.

18 BY adding to

19 The Public Local Laws of Dorchester County
20 Section 38-1 to be under the new chapter "Chapter 38 Right to Farm Law"
21 Article 10 - Public Local Laws of Maryland
22 (1984 Edition and March 1996 Supplement, as amended)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

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1 **Article 10 - Dorchester County**

2 CHAPTER 38

3 RIGHT TO FARM LAW

4 38-1.

5 (A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE COUNTY
6 COMMISSIONERS MAY ADOPT AN ORDINANCE TO PROTECT A PERSON'S RIGHT TO
7 FARM OR TO ENGAGE IN AGRICULTURAL OR FORESTRY OPERATIONS.

8 (B) IN ADOPTING AN ORDINANCE UNDER THIS SECTION, THE COUNTY
9 COMMISSIONERS MAY:

10 (1) DEFINE THE TERMS "AGRICULTURAL OR FORESTRY OPERATIONS",
11 "GENERALLY ACCEPTED AGRICULTURAL OR FORESTRY PRACTICES", AND ANY
12 OTHER TERMS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION;

13 (2) PROVIDE THAT A PRIVATE ACTION MAY NOT BE SUSTAINED WITH
14 RESPECT TO AN AGRICULTURAL OR FORESTRY OPERATION ON THE GROUNDS
15 THAT THE OPERATION INTERFERES OR HAS INTERFERED WITH THE USE OR
16 ENJOYMENT OF PROPERTY, WHETHER PUBLIC OR PRIVATE, IF, AT THE TIME THE
17 INTERFERENCE IS ALLEGED TO ARISE:

18 (I) THE AGRICULTURAL OR FORESTRY OPERATION, INCLUDING
19 ANY CHANGE IN THE OPERATION, HAS BEEN UNDER WAY FOR A PERIOD OF 1 YEAR
20 OR MORE AND IF THE OPERATION OR THE CHANGE DID NOT CONSTITUTE A
21 NUISANCE FROM THE DATE THE OPERATION BEGAN OR THE DATE THE CHANGE IN
22 THE OPERATION BEGAN; AND

23 (II) THE AGRICULTURAL OR FORESTRY OPERATION IS
24 CONDUCTED SUBSTANTIALLY IN ACCORDANCE WITH GENERALLY ACCEPTED
25 AGRICULTURAL OR FORESTRY PRACTICES;

26 (3) ESTABLISH A GRIEVANCE COMMITTEE TO ARBITRATE DISPUTES
27 INVOLVING AGRICULTURAL OR FORESTRY OPERATIONS AND WHETHER
28 AGRICULTURAL OR FORESTRY OPERATIONS ARE CONDUCTED IN A MANNER
29 CONSISTENT WITH GENERALLY ACCEPTED AGRICULTURAL OR FORESTRY
30 PRACTICES;

31 (4) REQUIRE A PERSON CLAIMING A NUISANCE AS A RESULT OF
32 AGRICULTURAL OR FORESTRY OPERATIONS TO ARBITRATE THE CLAIM BEFORE
33 THE GRIEVANCE COMMITTEE BEFORE MAINTAINING A PRIVATE ACTION IN COURT;

34 (5) PROVIDE THAT IF THE GRIEVANCE COMMITTEE FINDS THAT THE
35 CONDUCT OF A PERSON CLAIMING A NUISANCE AS A RESULT OF AGRICULTURAL OR
36 FORESTRY OPERATIONS WAS IN BAD FAITH OR WITHOUT SUBSTANTIAL
37 JUSTIFICATION, THE GRIEVANCE COMMITTEE SHALL REQUIRE THE PERSON
38 CLAIMING THE NUISANCE TO PAY THE PERSON AGAINST WHOM THE COMPLAINT
39 WAS MADE THE COSTS OF THE ARBITRATION PROCEEDING AND THE REASONABLE

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1 EXPENSES, INCLUDING REASONABLE ATTORNEY FEES, INCURRED BY THE PERSON
2 AGAINST WHOM THE COMPLAINT WAS MADE IN DEFENDING AGAINST THE CLAIM;

3 (6) REQUIRE A TRANSFEROR OF REAL PROPERTY TO PROVIDE TO THE
4 TRANSFEREE NOTICE ADVISING THE TRANSFEREE OF THE DORCHESTER COUNTY
5 RIGHT TO FARM ORDINANCE; AND

6 (7) INCLUDE ANY OTHER MEASURE THE COUNTY COMMISSIONERS
7 FIND NECESSARY TO PROTECT AGRICULTURAL OR FORESTRY OPERATIONS IN
8 DORCHESTER COUNTY.

9 (C) BEFORE ADOPTING AN ORDINANCE UNDER THIS SECTION, THE COUNTY
10 COMMISSIONERS SHALL HOLD A PUBLIC HEARING AND SHALL PROVIDE
11 REASONABLE NOTICE OF THE HEARING.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1997.